

FACTSHEET

IMPORTANT ISSUES



1 Recommended strategy

2 Measures to avoid or reduce damage

- A. Prior to the trade fair
- B. During the trade fair

3 Glossary

4 Related links & additional information



Trade fairs are an excellent opportunity for European SMEs to reach new customers, analyse the local market and display their products and services. Additionally, they provide a good environment for networking activities.

Brazil holds more than 300 events of this kind each year (Source: [nFerias](#)). Industry, construction, food and pharmaceutical products are the most relevant areas and deserved to be paid close attention.

Nevertheless, trade fairs also entail a certain degree of risk (such as counterfeiting and piracy). For this reason, good prior preparation is essential, which usually involves a major investment in terms of time and other resources.

Concerning Intellectual Property Rights (IPRs), an adequate protection and enforcement strategy is the key.

Benefits of a good preparation:

- Save costs
- Lower risk of infringement
- Greater chance of success in case of infringement

Problems you may face:

Always bear in mind the following most common problems and scenarios that you might have to face during or after a trade fair.

- a. Your IP is not duly protected and third parties may exploit it (either registering it or not). For instance: Non-patented inventions that are displayed at a fair may be patented by third parties.
- b. Your IP is duly protected, but you detect an infringement. For instance: The use of a trademark on a counterfeit product or the unauthorised use of a trademark for advertising purposes (e.g. the use of the slogan 'stronger than Super Glue').

Solutions:

If you are planning to attend a trade fair in Brazil and you want to avoid damages and unnecessary costs, we recommend that you take our recommendations into consideration.

Co-funded by:



European Union

Latin America IPR SME Helpdesk offers free of charge, confidential, first-line support

The Latin America IPR SME Helpdesk offers free of charge, fast and entirely confidential first-line support on IP matters for European SMEs, thus facilitating the expansion and development of European SMEs in Latin America. For further details visit the Mercosur IPR SME Helpdesk website: <http://www.latinamerica-ipr-helpdesk.eu/>

1. Recommended strategy

1) Identify your specific interests

Before attending these events, it is necessary to make sure that you are properly prepared. Firstly, it is recommended to establish the purpose of attending the fair. Your strategy may vary depending on your objectives: launching a new product in the market, maintaining your presence for one more year or checking competing products.

! TIPS and WATCH OUTS

Many infringing products and infringers (piracy and counterfeiting) can be found at these events.

However, it is not advisable to try to identify them and immediately bring legal actions against them, unless you are completely sure and ready. Police investigations must run their course, because the exhibitor may be just a mere intermediary. Precipitate action may alert the service provider, which can lead to losing track of him/her.

2) Identify your assets

It is always necessary to evaluate the Intellectual Property Rights (IPRs) of your SME and adopt a strategy in line with the purpose of attending the trade fair.

For instance: Your trade name may be registered as a trademark in Brazil, although it has been rejected in France. Without an IPR study you can hardly know.

3) Protect your IPRs

Once your IPRs have been duly identified, you must protect them in the best possible way.

! TIPS and WATCH OUTS

If a product has not been patented, it may still be exhibited at a trade fair. Nevertheless, the part of the product to be patented should not be shown to prevent it from being copied (reverse engineering) or rejected/invalidated when applying for a patent in the future (failure to comply with the novelty requirement).

In the latter case, there is a twelve-month grace period to apply for the patent.

4) Specialised legal aid

It is recommended to resort to local legal aid centres specialised in IP matters to protect and enforce your IPR, since most IPRs are territorial.

Additionally, it is worth highlighting that the protection of unregistered IPRs in Brazil is not as effective as in the case of registered IPRs, even for copyright.

2. Measures to avoid or reduce damage

A. Prior to the fair

1) Preparation of the necessary documents

Both before and during the fair, it is advisable to have the documents attesting:

- IPR holder's identity
- Entitlement to represent/act on behalf of the holder (lawyers and/or representatives acting on behalf of the IPR holder).
- Ownership of the IPR
- Validity and enforceability of the IPR

! TIPS and WATCH OUTS

In addition to the original certificates and titles, make sure to bring copies thereof (certified or uncertified copies), properly translated.

If the foreign company's credentials are written in a foreign language or have been issued abroad, they must be notarized and consularized (the public notary attests the authenticity of the signature; authentication of the document by the Brazilian consul of the country where the contract was signed is also required). A sworn translation in Portuguese is also mandatory (officially recognized by the Brazilian Chambers of Commerce).

If you suspect that an infringement is taking or may take place, bring also the documents attesting:

- The existence of infringing products or services
- The infringer's identity
- Any further interesting information

Make sure that the person you will be legally advised by (lawyer/agent) can access the exhibition centre: many trade fairs are not open to the public (professionals only).

2) Carefully examine the terms of the contract and the website of the organiser

These contracts normally contain the Intellectual Property infringement policy, which establishes:

- The measures to be taken in the event of an infringement complaint.
- The right to expel offenders from the exhibition
- The applicable sanctions if the commission of the infringement is confirmed, both for the current edition and for next editions.
- The liability of the organiser

! TIPS and WATCH OUTS

FEIMAFE's Exhibitor's Manual states that 'infringers will have their products removed from the exhibition without being entitled to indemnity rights, and they will be subject to the consequent legal costs and penalties, even after the opening date'.

In practice, organisers rarely intervene before an official judicial judgment is rendered.

However, they do collaborate when a police operation takes place.

Source: www.feimafe.com.br



3) Contact the organiser

These contracts normally contain the Intellectual Property infringement policy, which establishes:

- Introduce yourself: this may benefit you in case of a potential dispute with another exhibitor.
- Verify whether they have their own Complaints Centre, although they are not very common in Brazil. If there is one of these centres, it is advisable to introduce yourself, submit the aforesaid documents and notify them regarding potential infringements.

! TIPS and WATCH OUTS

The Global Association of the Exhibition Industry (UFI) has developed some useful recommendations for the events' organisers. Check out if they are met before you go and know in advance what tools do you have for potential IP infringements:

1. Provide specific information on IP to the participants before or during the registration process
2. Clearly designate or identify a person responsible for IP matters
3. Provide contact information of:
 - Customs authorities
 - IPR associations
 - Lawyers that could represent the participants in case of disputes concerning IP
4. Have available an IP consultation and complaints centre
5. Have available arbitration and/or mediation services for IP cases, including interpreters in the case of disputes where foreign exhibitors are involved

Source: www.ufi.org

4) Contact the local authorities

- Register your titles, certificates and licences at the designated administrative bodies, such as the Brazilian Intellectual Property Office (INPI) and the National Library (Biblioteca Nacional).
- If you suspect that an infringement may be committed by another exhibitor (counterfeit or pirated product), you should file a complaint before the customs authorities. This guarantees that they will be alert to suspicious consignments, thus being able to investigate, take samples and destroy illegal material.
- Please be aware of the import regulations.
- Verify if they are empowered to access the exhibition centre in order to conduct an operation to avoid the commercialisation of counterfeit products.

! TIPS and WATCH OUTS

Unfortunately, Brazil does not provide for a customs electronic registration system, unlike most European countries. Therefore, it is quite helpful to submit a hard copy of all the relevant documents in advance.

5) Investigate the other exhibitors

- Visit their websites to look for potential infringements.
- Check their past record of infringement. The assistance of a specialised professional is helpful for this purpose.

! TIPS and WATCH OUTS

Capture screenshots of the website that contain the relevant information:

- Pictures of infringing products
- Contact information and identification of the owner of the website
- Items that prove the infringement
- Etc.

It is better to do this before a Brazilian public notary

6) Develop a strategy in case of infringement

- Preferably with the assistance of the lawyer/agent that will represent you in case of legal actions
- The action plan should be examined on a case-by-case basis
- A decision should be taken as to when legal actions will be brought: before, during or after the event
- The type of actions that will be taken must also be specified:
 - Preventive actions: send a cease and desist letter (C&D) to avoid the infringement
 - Reactive actions: gather sufficient evidence for a potential legal action or organise a police operation together with the local authorities

SIGNPOSTING DIRECTORY

Contacting local authorities is easier thanks to our [Signposting Directory](#). Find all the relevant information of National Patent Offices (NPOs), Chambers of Commerce, Attorney Associations, Law Enforcement Agencies, Networks and more.

B. During the trade fair**1) Communicate with the other exhibitors in order to find potential infringements**

Many of them do not openly offer their infringing products or services, only to customers that they trust.

2) Gather as much information on the infringers as possible:

- Business card
- Brochures
- Presentations
- Etc.

3) Take pictures of the infringing products, if possible

The infringer may try to avoid it, or the organisation may have a policy prohibiting photographs. In this case, resort to a qualified professional (detective) or contact the organisation to obtain an authorisation.

**TIPS and WATCH OUTS**

Most organisers make recordings for promotional purposes. These recordings may be useful as a means of evidence in case of legal actions.

4) Be accompanied by a notary that can bear witness to the infringement**5) Let it be known that your products are protected by IPR and that you have an active enforcement policy**

- Include warnings in your stand and website
- Distribute information brochures
- Indicate that your IPR are protected. Use the symbols “©”, “®” or “™” to highlight it (obviously, only if they have been actually granted by the BPTO).



6) File a complaint before the organiser

If there is a specialised centre or person responsible for this purpose, file your complaint providing all the information that you can, preferably in writing.

The assistance of a lawyer can be very helpful, especially if the centre or person responsible for handling complaints is not familiar with such matters.

This kind of procedures implies an exchange of submissions that leads to ordinary judicial proceedings without further measures, unless the infringement is very clear.

7) Letter of formal notice

Once all the necessary information to bring legal actions is gathered, a formal notice or a cease and desist letter (C&D) may be sent.

It is a common tool to deter infringements and, although it is not a formal requisite to file a lawsuit, it is well regarded by Brazilian judges in the case of a legal dispute (it proves that you tried to solve the problem amicably).

The addressee is warned that:

- There is evidence of IPR infringement
- The infringement must be stopped, by destroying the material, removing references, etc.
- There is a specific deadline
- Failing to comply with the foregoing shall lead to legal actions

Ideally, this letter should be signed by a specialised lawyer, whose signature normally commands more respect.

8) (Civil) claims against IPR infringement

Because of the average duration of this type of events (3 days) and because of how slow and complex the Brazilian legal system, it is advisable to prepare all the necessary documentation as soon as possible.

If the legal requirements are met and if the judge deems it necessary, preliminary injunction consisting of the immediate cessation of the infringement may be adopted.

9) (Criminal) claims against the commercialisation of counterfeit or pirated products

In this case, a police intervention would take place at the exhibition centre. This intervention is aimed to:

1. Prevent the continuation of infringements
2. Seize the material as evidence of the alleged infringement

In any case, it is important for procedures to be conducted well in advance.



3. Glossary

The following is a list of terms that may be useful to better understand this document:

IP rights in force: IP rights that are currently valid. To remain in force, IP rights must be maintained, usually by paying maintenance (renewal) fees to an IP office at regular intervals. A trademark can be maintained indefinitely by paying renewal fees; however, patents, utility models and industrial designs can only be maintained for a limited number of years.

Source: <http://www.wipo.int/ipstats/en/statistics/glossary.html>

Grace period: The grace period is a period of time before the date of filing a patent/utility model/design in which public disclosure of an invention (under certain conditions) is allowed without affecting the validity of a subsequent patent/utility model/design application, provided that a complete application is filed within 6 or 12 months of the disclosure.

Source: <http://latinamerica-ipr-helpdesk.eu/glossary/g>

Import regulations: A set of legal rules that regulate the entry of imported goods and services in the country. It includes general regulations (general import policy, licensing, contingencies, goods subject to customs fees, prohibited or suspended imports) and specific regulations (technical standards, packaging, labelling, trademarks and patents).

These are just some of the terms you can find in our Glossary section. Visit Latin America IPR SME Helpdesk website to know more. <http://www.latinamerica-ipr-helpdesk.eu/>

4. Related links & additional information

Further information about IPR in Brazil is available on the Latin America IPR SME Helpdesk website:

<http://www.latinamerica-ipr-helpdesk.eu/>

Official website of the Global Association of the Exhibition Industry:
www.ufi.org

Brazilian calendar of exhibitions and fairs:
www.expofeiras.gov.br

Official website of the Brazilian National Institute of Industrial Property:
www.inpi.gov.br

Official website of the National Library Foundation:
www.bn.br/portal



LATIN AMERICA IPR SME HELPDESK

www.latinamerica-ipr-helpdesk.eu

MANAGE YOUR INTELLECTUAL PROPERTY IN LATIN AMERICA

ABOUT LATIN AMERICA IPR SME HELPDESK:

The Latin America IPR SME Helpdesk offers free of charge, first-line support on IP and IP rights matters to facilitate the expansion of European SMEs (EU SMEs and SMEs from the Associated countries) already established at, or working with entities in Latin America as well as those potentially interested in establishing commercial and R&D activities and ventures in these countries.

SERVICES

Helpline: Ask our experts any IP related questions in Latin America! We provide professional IP advice – customized, straightforward, and free of charge. Our Experts will answer your question within three working days.

Newsletter: Keep track of the latest news on IP in Latin America relevant to your business.

Multi-lingual Webportal: Browse our multilingual web portal for a broad range of information and training materials on IPR in Latin America in English, Spanish, Portuguese, French and German.

Training: Attend our trainings (online and on-site) and learn more about the key aspects of IPR protection and enforcement issues for doing business in Latin America.

For more information please contact the Helpdesk:
info@latinamerica-ipr-helpdesk.eu
helpline@latinamerica-ipr-helpdesk.eu

SPAIN

ADDRESS: University of Alicante, Campus San Vicente del Raspeig,
Edificio Torre de Control, 03690 Alicante, Spain
TEL: +34 96 590 9684
E-MAIL: head_office@latinamerica-ipr-helpdesk.eu
WORKING HOUR: Monday - Friday 9:00 - 16:30 (CEST)

BRAZIL

ADDRESS: Rua Marquês de Olinda, 70 – Botafogo. Rio de Janeiro-
RJ, CEP 22251-040
TEL: +55 21 2237-8728
E-MAIL: brazil@latinamerica-ipr-helpdesk.eu
WORKING HOUR: 9h00 - 18h00 (GMT-3)

MEXICO

ADDRESS (1): c/del Puente 222 Ejidos de Huipulco, Tlalpan 14380,
Ciudad de México, Distrito Federal
TEL: +52 (55) 5483-2252
E-MAIL: mexico@latinamerica-ipr-helpdesk.eu
WORKING HOUR: 9h30-18h30 (GMT-5)

ADDRESS (2): Avenida Eugenio Garza Lagüera & Rufino
Tamayo, Valle Oriente, San Pedro Garza García, 66269, Nuevo
León, México
TEL: +52 (81) 86256000
E-MAIL: mexico@latinamerica-ipr-helpdesk.eu
WORKING HOUR: 9h00-17h30 (GMT-5)

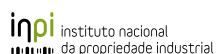
CHILE

ADDRESS: Galvarino Gallardo 1690, Providencia, Santiago
TEL: (56-2) 2 787 8422 – 2 787 8400
E-MAIL: chile@latinamerica-ipr-helpdesk.eu
WORKING HOUR: 9h30-18h30 (GMT-3)

Project implemented by:



EUROCHAMBRES



instituto nacional
da propriedade industrial



twitter.com/latinamericaipr



linkedin.com/in/latinamericaiprsmehelpdesk



facebook.com/laiprsmehelpdesk



www.latinamerica-ipr-helpdesk.eu/rss.xml



www.youtube.com/channel/UCXHB4TqVVMudvZHSQ3GJV8A

Download guide:



Disclaimer:

The Latin America IPR SME Helpdesk is a free service which provides practical, objective and factual information aimed to help European SMEs understand business tools for developing IPR value and managing risk. The services are not of a legal or advisory nature and no responsibility is accepted for the results of any actions made on the basis of its services. The content and opinions expressed are those of the authors and do not necessarily represent the views of the European Commission and/or the Executive Agency for Small and Medium-sized Enterprises or any other body of the European Union. Before taking specific actions in relation to IPR protection or enforcement all customers are advised to seek independent advice. Neither the European Commission nor the Agency may be held responsible for the use which may be made of the information contained therein.