

## THE BIRTH OF A NEW IP COURT

The forthcoming 5th Intellectual Property Business Congress, to take place in June 2012, in Portugal, may foreshadow a new age for Intellectual Property (IP) law in this country.

On the verge of its 36th anniversary, the Portuguese Institute for Industrial Property (INPI), a longstanding supporter of the idea of a proper IP court, appears to have won its first big battle against bureaucracy and a rather conservative approach to the Portuguese judicial system.

In April 2011 the Government announced the creation of two new specialized Courts - an IP Court that would address the difficult task of adjudicating on all industrial property and IP related disputes, and a Competition and Regulation Court with jurisdiction over the decisions of Portuguese competition and regulatory authorities (inter alia, the Portuguese Central Bank, the Competition Authority and the Securities Market Commission).

Soon after, Law No. 46/2011, of 24 June, translated said policy into legislation, by instituting the announced IP Court.

The IP Court's subject-matter jurisdiction shall be two-fold: on the one hand, by rendering judgments on all and any civil suits wherein the cause of action pertains to an industrial property or IP issue; on the other hand, by performing the judicial review of administrative decisions, enacted by agencies such as the INPI, on industrial property and IP matters.

The Court has yet to open its doors, but recently the Ministry of Justice told the Portuguese press that this matter is on the agenda for the first quarter of 2012.

In fact, one of the targets to which Portugal is committed under the terms of the Memorandum of Understanding entered into with the European Commission/European Central Bank/International Monetary Fund *troika* on 3 May 2011 is to *"Make specialized courts on Competition and on Intellectual Property Rights fully operational"*, by the first quarter of this year, as a way of both regaining confidence and boosting the economic value of industrial property and IP rights.

The International Intellectual Property Institute tells us that an *"increased specialization can help manage complexities, and greater understanding of and familiarity with IP issues can reduce errors, lower litigation costs, and result in greater consistency and predictability of outcomes."*

Let's hope that this measure is swiftly enforced...

Duarte Silva Marques

Topic: IP-IT Law