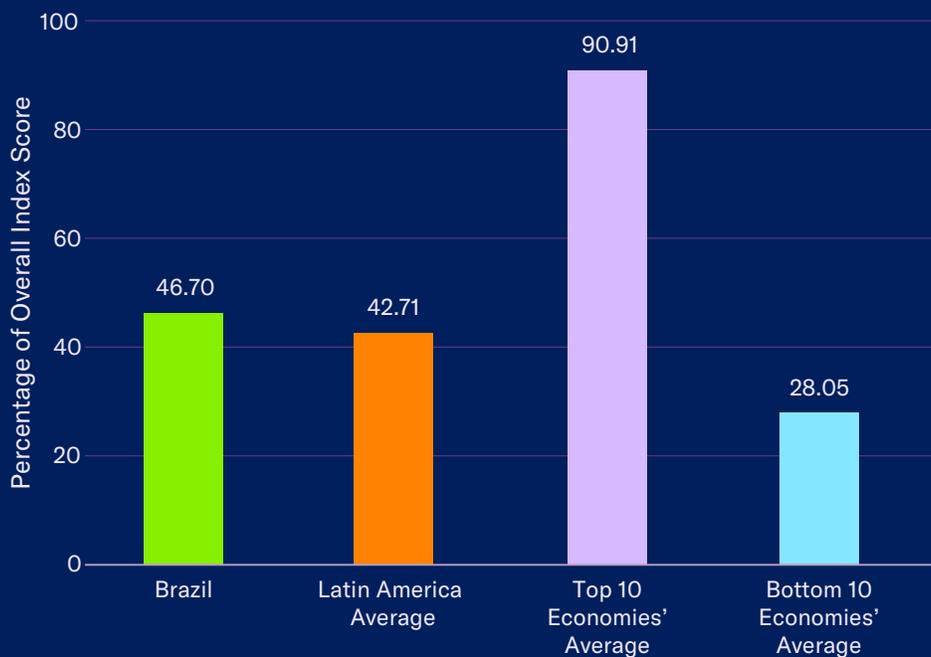




## Category Scores



## Overall Score in Comparison





## Key Areas of Strength

- 2025 Supreme Court ruling on digital platform responsibilities
- Law 3,696/2023 gives National Cinema Agency ANCINE copyright enforcement powers
- “Operation Copyright” and “Operation 404 against piracy” continued in full force in 2025 — key enforcement effort with Brazilian police and international authorities in disabling access to infringing content online
- Joined Hague Agreement in 2023
- INPI’s 2019 patent backlog plan ‘Plano de Combate ao Backlog de Patentes’ seeks to eliminate long-standing registration backlogs
- In 2021, INPI released first study of IP intensive industries’ national economic impact in Brazil
- Law nº 14.195/2021 changed Brazil’s IP Law so that ANVISA’s prior consent on patent applications is no longer required

## Key Areas of Weakness

- 2025 new statutory law authorizes Brazilian Government to override and suspend the protection of existing IP protection
- No special IP incentives for orphan medicinal product development
- Article 40 invalidation by Supreme Court in 2021 weakens Brazil’s patenting standards, retroactively targets biopharmaceutical industry, and impacts thousands of patent applications; this remained unaddressed in 2025. In November of 2025, Brazil House of Representatives presented Bill nº 5810, which seeks to reestablish the Art. 40 mechanism.
- Compulsory licensing amendments for health emergencies broadens existing emergency powers and authority, potentially generating legal uncertainty
- Key life sciences IP rights missing, including patent term restoration and RDP, causing an overall challenging patentability environment
- Limited participant in international IP efforts — only a full contracting party to two out of nine treaties included in the Index

Indicator	Score	Indicator	Score
<b>Category 1: Patents Rights and Limitations</b>		<b>3.24</b>	
1. Term of protection	1.00	29. Direct Government intervention in setting licensing terms	0.50
2. Patentability requirements	0.00	30. IP as an economic asset	0.50
3. Patentability of CII	0.00	31. Tax incentives for the creation of IP assets	0.33
4. Plant variety protection	0.74	<b>Category 7: Enforcement</b>	
5. Pharmaceutical-related enforcement	0.00	<b>3.30</b>	
6. Legislative criteria and active use of compulsory licensing	0.00	32. Physical counterfeiting rates	0.52
7. Pharmaceutical patent term restoration	0.00	33. Software piracy rates	0.53
8. Membership of a Patent Prosecution Highway	1.00	34. Civil and procedural remedies	0.25
9. Patent Opposition	0.50	35. Pre-established damages	0.25
<b>Category 2: Copyrights and Limitations</b>		<b>2.88</b>	
10. Term of protection	0.63	36. Criminal standards	0.50
11. Exclusive rights	0.50	37. Effective border measures	0.50
12. Expeditious legal remedies disabling access to infringing content online	0.75	38. Transparency and public reporting by Customs	0.75
13. Cooperative action against online piracy	0.00	<b>Category 8: Systemic Efficiency</b>	
14. Limitations and exceptions	0.50	<b>4.50</b>	
15. TPM and DRM	0.25	39. Coordination of IP rights enforcement	0.75
16. Government use of licensed software	0.25	40. Consultation with stakeholders during IP policy formation	1.00
<b>Category 3: Trademarks Rights and Limitations</b>		<b>2.25</b>	
17. Term of protection	1.00	41. Educational campaigns and awareness raising	0.75
18. Protection of well-known marks	0.50	42. Targeted incentives for the creation and use of IP assets for SMEs	1.00
19. Exclusive rights, trademarks	0.50	43. IP-intensive industries, national economic impact analysis	1.00
20. Frameworks against online sale of counterfeit goods	0.25	<b>Category 9: Cutting-Edge Innovation</b>	
<b>Category 4: Design Rights and Limitations</b>		<b>0.00</b>	
<b>1.50</b>		44. IP incentives for orphan medicinal product development	0.00
21. Industrial Design Term of Protection	1.00	45. IP incentives for orphan medicinal product development, term of protection	0.00
22. Exclusive rights, industrial design rights	0.50	46. Restrictions on the effective use of existing IP incentives for orphan medicinal product development	0.00
<b>Category 5: Trade Secrets and the Protection of Confidential Information</b>		<b>Category 10: Membership and Ratification of International Treaties</b>	
<b>1.50</b>		<b>3.50</b>	
23. Protection of trade secrets (Civil Remedies)	1.00	47. WIPO Internet Treaties	0.00
24. Protection of trade secrets (Criminal Sanctions)	0.50	48. Singapore Treaty on the Law of Trademarks and Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks	0.50
25. Regulatory data protection term	0.00	49. Patent Law Treaty and Patent Cooperation Treaty	0.75
<b>Category 6: Commercialization of IP Assets</b>		<b>1.00</b>	
26. Barriers to market access	0.50	50. Membership of the International Convention for the Protection of New Varieties of Plants, act of 1991	0.00
27. Barriers to technology transfer	0.50	51. Membership of the Convention on Cybercrime, 2001	1.00
28. Registration and disclosure requirements of licensing deals	0.00	52. The Hague Agreement Concerning the International Registration of Industrial Designs	1.00
		53. Post-TRIPS FTA	0.25

**Total Score: 24.75**

# Spotlight on the National IP Environment

## Past Editions versus Current Score

Brazil's overall score has increased from 24.50 out of 53 indicators in the 13th edition to 24.75. This reflects a score increase on indicator 53.

## Area of Note

In 2025, the Brazilian Government introduced a new statutory law and regulatory powers that allow it to override and suspend existing IP protections in “response to unilateral measures adopted by a country or economic bloc that negatively impact Brazilian international competitiveness.” Together, Law 15,122, enacted in April, and Decree 12,551, issued in July, grant the Executive Branch sweeping powers to “suspend commercial, investment and concessions obligations relating to intellectual property rights.” While the law and regulatory decree define and require holding public consultations prior to issuing any measures under the law (including with the private sector), the potential negative impact on rights holders worldwide through the use of these powers is immense. The Index will continue to monitor these developments in 2026

## Patent Rights and Limitations

### *2. Patentability requirements and 3. Patentability of computer-implemented inventions (CIIs):*

In 2025, rights holders continued to face challenges in registering and protecting patent-eligible subject matter in Brazil. Above all, the Brazilian Government and National Congress have not yet taken the necessary steps to implement a TRIPS-compliant minimum term of patent protection.

Given that the Brazilian national IP office, INPI, has historically had a significant backlog, the Industrial Property Law had, up until 2021, provided innovators in Brazil with a guaranteed minimum term of exclusivity and protection of 10 years from grant for standard patents. Article 40 of the Law stated that the term of protection shall “not be less than 10 (ten) years for an invention patent and 7 (seven) years for a utility model patent, beginning on the date of granting, unless the INPI has been prevented from examining the merits of the application by a proven pending judicial dispute or for reasons of force majeure.”

For years, Article 40 provided rights holders with a proverbial floor of exclusivity and insurance against delays. In a series of decisions in the Spring of 2021, the Brazilian Supreme Court removed this floor. Not only did the Court declare that Article 40 was unconstitutional and would no longer be available or applicable, but it also stated that the ruling should be retroactively applied, only to granted patents in the biopharmaceutical and health-related fields.

As noted in the Index, since the ruling, this judgment has been a setback for Brazil's national IP environment, discriminating against biopharmaceutical rights holders and shortening exclusivity periods. The Supreme Court decision not only weakened Brazil's standards of patent protection, but the selective retroactive application of the ruling to one field of technology and innovation violates Article 27(1) of the TRIPS treaty and established international principles of non-discrimination. Since then, the Brazilian judiciary, legislature, and executive branches have all failed to grant rights holders any sustained relief. Numerous court cases have been filed but have not brought any further clarity on how the Supreme Court's ruling should be applied or interpreted.

This continued in 2025 with conflicting outcomes in a case involving the sale of follow-on products to the molecule liraglutide by the Federal courts. Similarly, legislative proposals, such as Bill 5810/2025, have been presented in the National Congress to provide a period of patent term restoration for administrative delays during patent examination and prosecution. However, to date, no new laws have been enacted. The Index will continue to monitor these developments in 2026.

## Copyrights and Limitations

*11. Legal measures which provide necessary exclusive rights that prevent infringement of copyrights and related rights (including Web hosting, streaming, and linking); and 13. Availability of frameworks that promote cooperative action against online piracy:*

In 2025, the Supreme Court issued a ruling outlining the responsibilities of online application providers (digital platforms) regarding third-party content under Article 19 of the Marco Civil da Internet (Law No. 12,965), including the removal of copyright-infringing content upon notice from the rights holder. Before this judgment, Brazil lacked a formalized, comprehensive mechanism with clear lines of responsibility for online infringement. Historically, there has been some cooperation between online platforms and rights holders, but it has been largely piecemeal and ad hoc, not systematic. Under the 2014 Marco Civil da Internet law, Section 3 and Articles 18–20 provide a broad safe harbor provision for digital platforms relating to third-party infringement. Platforms are only required to act and make infringing content unavailable after a court issues a clear order declaring the content as infringing.

Given the Supreme Court's decision and reinterpretation of the constitutionality of Law 12,965, platforms may be held legally responsible for illegal content when they fail to act after receiving a notification regarding clearly unlawful material, even in the absence of a prior court order.

This reinterpretation does not alter the liability regime applicable to internet access providers (ISPs as connection providers), which remain protected under Article 18 of the Marco Civil da Internet. This ruling represents a significant shift in Brazil's intermediary liability framework and has materially altered the enforcement environment for online copyright. The Index will continue to monitor these developments in 2026.

## Membership and Ratification of International Treaties

*53. At least one post-TRIPS FTA with substantive IP provisions and chapters in line with international best practices:*

As noted in the Index at the time, in 2019, the South American regional trade bloc Mercosur concluded negotiations with the EU on a free trade agreement between the two trading blocs. The agreement is still subject to ratification by all parties. The agreement includes a dedicated IP chapter, which reflects a recognition of the importance of IP-intensive industries and the centrality of IP rights to the future trade and economic development of all economies.

As has been noted in the Index, this is not always the case. Many 21st-century post-TRIPS FTAs do not include a dedicated IP chapter or otherwise skirt meaningful provisions on IP rights. Overall, the IP provisions of the EU-Mercosur FTA are not as strong as those of other post-TRIPS agreements concluded by the EU, such as the EU-Japan Economic Partnership Agreement, the EU-ANDEAN Community FTA, or the Canada-European Union Comprehensive Economic and Trade Agreement (CETA). For example, the treaty contains no substantive provisions on patent rights, and its copyright provisions are relatively limited. Similarly, border measures are weak, with parties largely exempt from taking effective measures; the treaty does not grant customs officials *ex officio* authority to act against suspected goods.

Moreover, in-transit goods are explicitly exempt from any action under Article X.58(2). Finally, for IP-intensive sectors specifically, there are no provisions for the biopharmaceutical sector. This stands out compared with previous EU post-TRIPS FTAs such as the EU-ANDEAN Community FTA, which included a requirement for a five-year RDP term.

Nevertheless, there are several substantive IP provisions in the Agreement. For instance, there is clear language on civil and administrative enforcement (including the need for an established method for calculating damages), and trade secret provisions are relatively strong, with clear definitions of trade secrets and infringement. These are all important post-TRIPS IP standards covered as discrete indicators in the Index.

Historically, this indicator has been scored based on whether an economy is a signatory to, and has ratified or acceded to, a modern post-TRIPS FTA that includes substantive IP provisions in line with international best practices, as identified in the Index. As such, this indicator has not accounted for the allocation of partial scores in cases where a post-TRIPS FTA includes only a limited number of substantive IP provisions, consistent with international best practices and identified in the Index.

To take better account of the increasing number of post-TRIPS FTAs that include some substantive IP provisions identified in the Index, from this edition of the Index onward, it will be possible to achieve a partial score ranging from 0, 0.25, 0.5, 0.75, and 1. Like all other indicators in this category, we will evenly divide the score allocation between the signature and ratification or accession to an international treaty. As a result of the change in scoring methodology used and the fact that the Agreement is still pending ratification, the score on this indicator has increased by 0.25.