

## USO DA MARCA NORDESTE E SUA PROTEÇÃO

### USE OF THE NORDESTE BRAND AND ITS PROTECTION

**Camila Souza Vieira<sup>1</sup>; Robelius De Bortoli<sup>2</sup>;**

<sup>1</sup>Programa de Pós-Graduação em Ciência da Propriedade Intelectual- PPGPI

Universidade Federal de Sergipe – UFS – São Cristóvão/SE – Brasil – [profcamilasouza@yahoo.com.br](mailto:profcamilasouza@yahoo.com.br)

<sup>2</sup>Programa de Pós-Graduação em Ciência da Propriedade Intelectual- PPGPI

Universidade Federal de Sergipe – UFS – São Cristóvão/SE – Brasil - [robelius@yahoo.com.br](mailto:robelius@yahoo.com.br)

#### Resumo

*O artigo em loco aborda o pedido de registro da marca nordeste junto ao INPI trazendo à tona como tem sido usada a marca no que diz respeito a período, status e serviço ou produto. Existe a necessidade de mostrar a importância da realização de uma busca antes de se lançar ou solicitar registro de uma marca, a partir disto tem-se o objetivo de analisar o registro da marca nordeste buscando incentivar seu uso através de uma prospecção. O termo nordeste remete as características regionais, podendo levar ao imaginário temporal, espacial ou cultural (gostos, características, clima, dança, força, beleza, etc). Utilizou-se uma pesquisa descritiva documental sendo a análise de caráter quantitativo e qualitativo, ficando evidente que existe o interesse no uso da marca nordeste, verificado através da presença de pedidos em áreas distintas o que mostra a importância de que se verificar o que já existe antes de se solicitar registro.*

**Palavras-chave:** propriedade intelectual; marca; nordeste; proteção

#### Abstract

*The article is about the registration request of the “Nordeste” brand with the INPI bringing up how the brand been used accord the period, status and service or product. There is a need to show the importance of conducting a search before launch or registration request a brand, from this the objective of analyze registration of the “Nordeste” brand looking for encourage its use through a prospecting. The northeastern term refers to the regional characteristics, which can lead to the temporal, spatial or cultural imagery (tastes, characteristics, climate, dance, strength, beauty, etc.). A documentary descriptive research was used, with a quantitative and qualitative analysis, verified through requests in distinct areas that shows the importance of checking what already exists before requesting registration.*

**Key-words:** intellectual property; mark; nordeste; protection.

#### 1. Introduction

This article deals with the use of the Northeast brand, with the objective of analyze the

Nordeste brand registration looking for encourage its use through a prospecting.

In order for a brand to be launched on the market it needs a search about existing registrations, consumer market, marketing possibilities, in other words, prospecting is the kick-off for a new product or brand.

Realizing the Northeast as a region of great visibility, the following question arises: how was the “Nordeste” brand used? In order to respond, an analysis was made of the requests for registrations made at INPI.

To create the brand, there are some steps: idea generation, positioning, prospecting, strategy determination, marketing tests and adaptations to the consumer market.

The research is of a descriptive and documentary nature, having as data source the INPI website through a search conducted in December 2017.

Think of Northeast is to visualize a strong and resistant people, a dry region, but also of natural beauties and all these images sustain the imaginary that can be related to the brands and that is the purpose to choose a name, its relation with the object or service offered.

## **2. Theories**

Previous studies of the use of the brand, we realize some important points: the brand describes its product or service through immediate information having in its scope name, logo, features and products. The image is how the consumer sees it, being very important for its credibility.

The brand has its definition from the regional and cultural characteristics, always having to adapt the characteristics of the target public or market, focusing in the search of profits using propaganda, campaigns and sponsorships directing to a positive return. Another marketing component is the company's websites or relationship pages which should maintain a link between company and customer (OLIVEIRA; CAMPOMAR, 2007).

In order to be protected the brand needs to be registered at INPI and must follow all legal procedures in order to avoid imitations and the emergence of similar ones.

Large brands have a greater potential to make greater marketing investments through advertisements and image use of positive visibility personalities, with a return to the possibility of charging higher values, called "premium" and often these can be confused with the product, as is the case of "Maisena".

The brand is the name, term, design, symbol and elements that characterize it, and this is often built by customers through an interaction. Its value is related to its notoriety, loyalty and

perceived quality, and these points are positive when there is good advertising and market positioning. The image of the brand exists through the product (design, performance and durability), service (service, guarantee and assistance), price (discounts and payment terms), identity signs (logo and name), communication merchandising), distribution (location, delivery date and availability), references, facilities and country of origin, and the relationship needs to be dynamic taking care to avoid negative modifications (BRITO, 2010).

The brand is its concept, being also the patrimony of the company where realizes sales, acquisitions and fusions. In the market, this needs to be strong, solid and competitive being unique and nontransferable, timeless and constant, consistent and coherent, objective and adaptive, seeking physical quality and providing emotional and social associations where its use provides a sense of pleasure and identification looking for generate in the consumer an identity. The factory produces the products, "but the consumer consumes the brand and not the products". It is noticed that there is a visual identity where the customer identifies, differentiates, associates and reinforces through the use of the communication that happens through advertising, public relation, sales promotion and personal sales (VASQUEZ, 2007).

Brand positioning is intrinsically linked to the market (identification, segment selection and competitor verification). Psychology is based on exploring the consumer mind trying to create strategies to ensure the loyalty and consumption, using slogans searching to insert the type of offer, the target audience and the competition. The marketing positioning is related to the desired positioning (value proposition) and perceived positioning (mental process and target audience). The success in the positioning occurs through an adequate segmentation of the market verifying the intended positioning, the offer differentiation and the positioning perceived by the target audience (OLIVEIRA; CAMPOMAR, 2007).

Thinking about the relationship between advertising and brand, there is an association with the aspects of social life where the way of life interferes in the search for products or services, and the culture is strongly influenced by external and internal factors, because though behavioral changes, noticing the need to verify the style of consumption and stimulate the search for authenticity this factor that interferes in the consumption process (MARUJO, 2014).

Discussing the existence of fakes luxury brands, verified that the users sees them as substitutes for those items of desire, having a strong influence in socio-demographic factors and attitudes. Fake items are designed to be "equal" to originals in design, logo, with company name the same or similar to those of the trademark, without their legal authorization. The counterfeit brand corresponds to the desire for the original brand and its purchase is linked to the personality of the buyer, to pleasure in acquiring the product, social influence and the need to be accepted in a

particular environment (STREHLAU, VILS, et al., 2014).

With regard to intellectual property, it is necessary to understand that is the sum of rights about authors, concerning inventions, scientific discoveries, industrial designs, industrial, commercial and service marks, artistic creations and protection against unfair competition.

According to Varella and Marinho (2005), “intellectual property protects literary, artistic and scientific works; interpretations of performers, performance, phonograms, trademarks of industry and commerce, topographies of integrated circuits; products and manufacturing processes in pharmaceutical and biotechnology.”

In this context, prospecting a brand according to Mayerhoff (2008) is to change proactively, mapping the technological development seeking out to anticipate possible transformations.

### **3. Methodology**

The following table shows the brands analyzed in December 2017 on INPI website, with 44 applications for registration of the Nordeste brand.

According Trivinos (1987), " the descriptive study requires that the researcher to accurately delimit techniques", methods, models and theories that will guide the collection and interpretation of the data, whose objective is to confer scientific validity to research, being of documentary character through the search of brands with the northeastern term in the INPI website.

### **4. Discussion and Results**

It has been found that trademarks with registration request are mostly for food, security, ceramics, transportation, construction and clothing.

According to art. 122 Law 9.279 / 96 “are capable of registered as a trademark, distinctly visible signs not included in the legal prohibitions” (Brazil, 1996). Table 1 shows the results of the search for the brands.

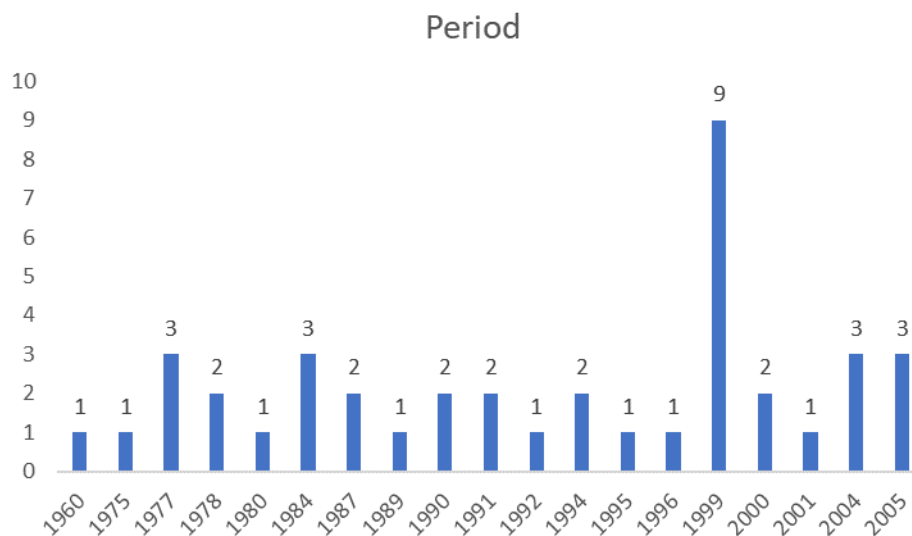
Table 1 - Relation of the northeastern registration requests

<b>PRIORITY</b>	<b>BRAND</b>	<b>SITUATION</b>	<b>CLASS</b>
14/04/1960	<b>NORDESTE</b>	Record	NCL(7) 30
30/05/1975	<b>NORDESTE</b>	Extinct	07 : 10
16/03/1977	<b>NORDESTE</b>	Extinct	40 : 99
12/04/1977	<b>NORDESTE</b>	Extinct	19 : 99
07/07/1977	<b>NORDESTE</b>	Record	38 : 30
25/04/1978	<b>NORDESTE</b>	Extinct	09 : 99
29/08/1978	<b>NORDESTE</b>	Extinct	37 : 99
30/01/1980	<b>NORDESTE</b>	Extinct	NCL(8) 36
25/01/1984	<b>NORDESTE</b>	Record	28 : 10
25/01/1984	<b>NORDESTE</b>	Trademark registration in force	NCL(8) 35
19/12/1984	<b>NORDESTE</b>	Extinct trademark registration	32 : 20
18/09/1987	<b>NORDESTE</b>	Filed	38 : 20
18/09/1987	<b>NORDESTE</b>	Extinct	40 : 25
17/03/1989	<b>NORDESTE</b>	Filed	40 : 25
31/05/1990	<b>NORDESTE</b>	Filed	20 : 15
24/08/1990	<b>NORDESTE</b>	Filed	40 : 15
31/01/1991	<b>NORDESTE</b>	Filed	29 : 30
03/05/1991	<b>NORDESTE</b>	Extinct	40 : 50
05/11/1992	<b>NORDESTE</b>	Filed	30 : 10
30/11/1994	<b>NORDESTE</b>	Filed	33 : 20
30/11/1994	<b>NORDESTE</b>	Record	40 : 15
09/11/1995	<b>NORDESTE</b>	Filed	38 : 20
14/08/1996	<b>NORDESTE</b>	Application for registration of rejected trademark (maintained in appeal level)	32 : 10
10/06/1999	<b>NORDESTE</b>	Filed	38 : 20
10/06/1999	<b>NORDESTE</b>	Filed	40 : 50
30/08/1999	<b>NORDESTE</b>	Extinct trademark registration	02 : 10
01/12/1999	<b>NORDESTE</b>	Filed	40 : 10
01/12/1999	<b>NORDESTE</b>	Filed	33 : 20
01/12/1999	<b>NORDESTE</b>	Record	30 : 10
01/12/1999	<b>NORDESTE</b>	Trademark registration in force	NCL(8) 30
01/12/1999	<b>NORDESTE</b>	Trademark registration in force	NCL(8) 31
01/12/1999	<b>NORDESTE</b>	Trademark registration in force	NCL(8) 30
25/04/2000	<b>NORDESTE</b>	Filed	NCL(7) 29
10/08/2000	<b>NORDESTE</b>	Order definitely filed	NCL(7) 30
10/08/2001	<b>NORDESTE</b>	Trademark registration in force	NCL(7) 30
24/03/2004	<b>NORDESTE</b>	Awaiting payment of the concession (in ordinary time)	NCL(8) 20
24/03/2004	<b>NORDESTE</b>	Trademark registration in force	NCL(8) 09
24/03/2004	<b>NORDESTE</b>	Application for registration of rejected trademark (maintained in appeal level)	NCL(8) 35
23/03/2005	<b>NORDESTE</b>	Order definitely filed	NCL(8) 29
02/05/2005	<b>NORDESTE</b>	Application for registration of rejected trademark	NCL(8) 41
02/05/2005	<b>NORDESTE</b>	Awaiting payment of the concession (in ordinary time)	NCL(8) 45
10/07/2007	<b>NORDESTE</b>	Application for registration of rejected trademark	NCL(9) 30
10/07/2007	<b>NORDESTE</b>	Application for registration of rejected trademark	NCL(9) 35
02/08/2012	<b>NORDESTE</b>	Trademark registration in force	NCL(10) 30

(Source: adapted ISTI, 2018)

The performed survey presented 44 trademark applications from 1960 to 2012. Figure 1 shows the registrations number per year.

Figure 1 - Period of application for registration of the Northeast brand in INPI



(Source: adapted ISTI, 2018)

When analyzing the periods of greatest requests registration are the years 1999 (point of greatest impact) followed by 1997, 1984, 2004 and 2005, may being caused by delay in the evaluation process at the INPI.

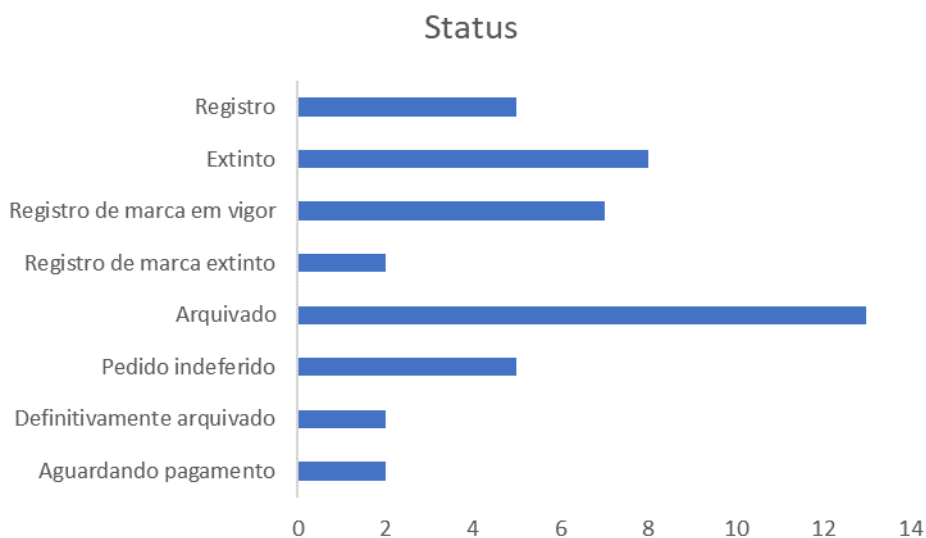
The registration requests are related to what market asks for, or what the industry foresees as future need. Trademarks are ideas and concepts of the imaginary which are planned, registered (protected) and manufactured reaching the consumer directly through supermarkets, shops, malls, internet, newspapers, television, everywhere, searching of finding loyal consumers with love and passion.

In Brazil there are in average 30,000 new requests trademark registration at INPI per year, which shows the great potential of the market (GOMES, 2014).

The trademark to be registered (protected) must be different from the other competitors having the exclusivity of registration. Free competition gives limits, otherwise it is disloyal. Those who do not seek protection or registration seeks for protection through: common brand use, effective use of trade, use of good faith, and customer acquisition (BARBOSA, 2012).

The length of the registration process is long and of high financial value, but in order for the trademark to have legal right guarantee, it must first carry out the prospection and then the application for registration with the INPI.

Figure 2 - Status of northeastern registration applications in INPI



(Source: adapted ISTI, 2018)

Figure 2 presents the data according to their status at INPI. The most frequently encountered situations are: archived, extinguished process and trademark registration in force, being verified that many times the delay in the process and the respect of the norms causes such situations to occur.

A process can be filed for lack of response to an appeal or request and for non-payment may be extinguished because the term of life of the trademark has expired without any request for extension of the deadline. The trademark is in force when it is within the time limit delimited for its protection, this information is evident through what says the law that governs.

With regard to the extinction of the registry, according to Law 9.279 (BRASIL, 1996) may occur,

- I - by the expiration of the period of validity;
- II - the renunciation, which may be total or partial in relation to the goods or services indicated by the mark;
- III - by lapse; or
- IV - for non-compliance with the provisions of art. 217.

With regard to archiving, art. 159, addresses that "after the opposition period has elapsed or, if filed, after the deadline for manifestation has expired, the examination shall be made, during which time requirements may be formulated, which shall be answered within 60 (sixty) days."

There are relevant points regarding payment of fees at INPI to continue the proceedings, and Art. 162 addresses that "the payment of the remunerations, and their proof, regarding issuance of the certificate of registration and the first ten years of its validity, shall be made within 60 (sixty) days counted from the deferment."

There is a need to follow the process so that protection is not lost because it no longer responds to what INPI requests.

Trademarks are linked to the origin and origin of a product and are aimed at commerce and / or service, and the legal nature is responsible for the protection of the entrepreneur and the consumer. The brand can be of product or service (focused on these spheres), certification mark (it certifies if it meets the standards of quality, nature, material and method used), collective marks (products and services of members of a certain entity) and well known brands (good reputation, quality and acceptance, are those that everyone knows) (MALLMANN, 2014).

## 5. Conclusion

It can be concluded that there are a range of applications for registration of the Nordeste brand with the INPI, many in force, but many extinct by various facts.

It is evident the step by step process, the need for an answer from the applicant and also the need for follow-up.

The prospection provides the necessary data base to see if the nordeste brand offers the possibility of more registrations because the conceptual difference and distinguishing is necessary for the process to offer a positive answer.

From these data it is possible to see that the Nordeste with all its strength and visibility offers support so that the imaginary can be transferred to the real through services or products.

There is therefore the possibility of future research on the importance of prospecting and the Nordeste for commercial development, intellectual property and local.

## Reference

BARBOSA, D. B. **Da proteção real a marca não registrada no Brasil**. PIDCC, Aracaju, 73-117, 2012.

BRASIL, Lei n. 9.279, de 14 de maio de 1996. Regula direitos e obrigações relativas a propriedade industrial. **Diário oficial da União**. Brasília, 15 de maio de 1996.

BRITO, C. Uma abordagem relacional ao valor da marca. **Revista de Gestão dos Países de Língua Portuguesa**, Lisboa, v. 9, p. 15, 2010.

GOMES, L. S. R. Sonhar é preciso. **Seminário de Branding e design gráfico**, Santa Catarina, 2014.

MALLMANN, Q. **O poder das marcas: marcas registráveis e não registráveis**. PIDCC, Aracaju, p. 29-35, maio, 2014.

MAYERHOFF, Zea Duque Vieira Luna. Uma Análise Sobre os Estudos de Prospecção Tecnológica. **Cadernos de Prospecção**, v. 1, n. 1, p. 7-9, 2008.

MARUJO, N. A Cultura, o Turismo e o Turista: que relação? **Revista de investigación en turismo y desarrollo local**, v. 7, n. 16, p.12, junho-julho, 2014.



OLIVEIRA, B.; CAMPOMAR. Revisitando o posicionamento em marketing. **REGE Revista de Gestão**, São Paulo, v. 14, n. 1, p. 41-52, janeiro-março, 2007.

STREHLAU, S. et al. Prontidão ao consumo de marcas de luxo falsificadas. **Revista de Administração da UNIMEP**, São Paulo, v. 12, n. 2, maio-agosto, 2014.

TRIVINOS, Augusto Nivaldo Silva. **Introdução á pesquisa em ciências sociais:** a pesquisa qualitativa em educação. São Paulo: Atlas, 1987.

VARELLA, Marcelo Dias; MARINHO, Maria Edelvacy Pinto. A propriedade intelectual na OMC. **Revista do Programa de Mestrado em Direito do UniCEUB**, Brasília, v. 2, n. 2, p.484-501, julho-dezembro, 2005.

VASQUEZ, R. P. **Identidade de marca, gestão e comunicação.** Organicom, p.14, 2007.