

MEMORANDUM TO CLIENTS

INTELLECTUAL PROPERTY

November 23, 2015

Public hearing to discuss streaming and copyright holders' compensation is launched

The Brazilian Superior Court of Justice ("STJ") has called a public hearing to debate the transmission of musical works on the internet via streaming (webcasting and simulcasting) as well as payment due to the Brazilian Central Office for Collection and Distribution of Copyrights ("ECAD") for the exploitation of music.

This initiative was proposed as a result of the rise of virtual radio, which makes its programming available on the internet for streaming.

The public hearing will be held in the STJ's Second Panel Conference Room ("Sala de Sessões da Segunda Seção do STJ") in Brasília starting at 9 A.M., on December 14, 2015. Interested parties must express their intention to participate and name their speakers by 8 P.M. on December 4, 2015.

A Dispute with the STJ

On October 21, 2015, a public hearing was called by the Minister Ricardo Villas Bôas Cueva to support the Ministers in the judgment of the Special Appeal (No. 1.559.264) filed by ECAD against Oi FM Radio.

In the complaint, ECAD alleges that the transmission of musical works via streaming (webcasting and simulcasting) constitutes public performance and, therefore, entitles them to collect fees.

From this perspective, the public hearing seeks to clarify the following questions:

- (i) The real meaning of the expression “public performance”;
- (ii) Whether streaming may be deemed public performance;
- (iii) Whether ECAD is entitled to collect fees due on transmission of musical works on the internet via streaming (webcasting and simulcasting).

Any person interested in this debate is invited to participate in the public hearing, including state agencies, the general public, the Federal Public Ministry, performers’ associations, radio and television stations and producers.

Each interested party will be given a certain amount of time to present his/her opinion, which will be stipulated according to the number of stakeholders that manifest interest in the topics being discussed.

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The purpose of this memorandum is to inform our clients about important changes and developments in the area of law. We remain at the reader's disposal for any additional information that may be desired regarding the subject matter herein.

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