

ROGATORIES IN BRAZIL

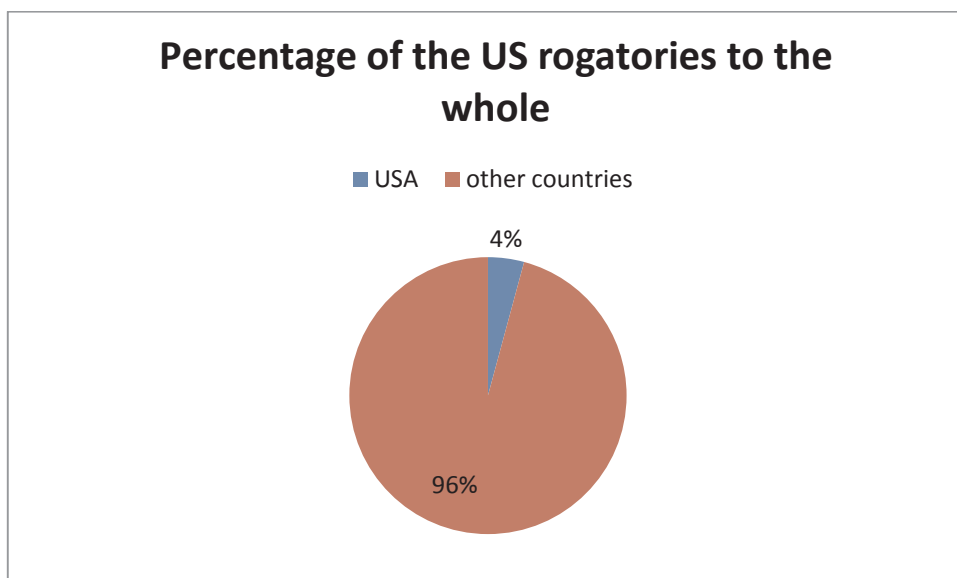
Brazil adopts a centralized procedure when it comes of receiving letters rogatories. Until 2005, when a constitutional amendment changed the matter, all rogatories before being executed were sent to the Supremo Tribunal Federal (STF) for a brief analysis. Nowadays this task belongs to the Superior Tribunal de Justiça (STJ), another federal court.

To see how this tribunal was dealing with its new duty we decided to run a research in its internet case database to put together some statistics. Before we present them though, here's a short summary of the Brazilian procedure to enforce a rogatory:

First of all, the proceedings are not *ex parte*, which means that the first thing that happens is the service of the part to inform him of the foreign court request. The part has then a 15 days term to try to impugn the request and to try to avoid it. Note that the part can't plea matters concerning the merit of the claim, which can only be discussed abroad. The only possible defenses are: the foreign court has offended the Brazilian Law and principles or the letters rogatory requirements, such as a Portuguese translation of the case, haven't been complete or successfully fulfilled. After that, the federal judge will hear the Ministério Público (MP), the responsible organ for collective interest defense, such as prosecute criminal offenders and verify the due appliance of the law. Finally, a decision will be affirmed. The part will have then the right to appeal to a higher commission inside the STJ, in where a group of judges will give the tribunal's final word. If the decision is negative, the rogatory will be returned unfulfilled to its origin. If the decision is positive, the rogatory will be sent to a correspondent federal district court to be enforced. It will then be returned to the STJ, who will give it back to the Ministério das Relações Exteriores (the Brazilian Secretary of State), who will finally return it to the applicant country.

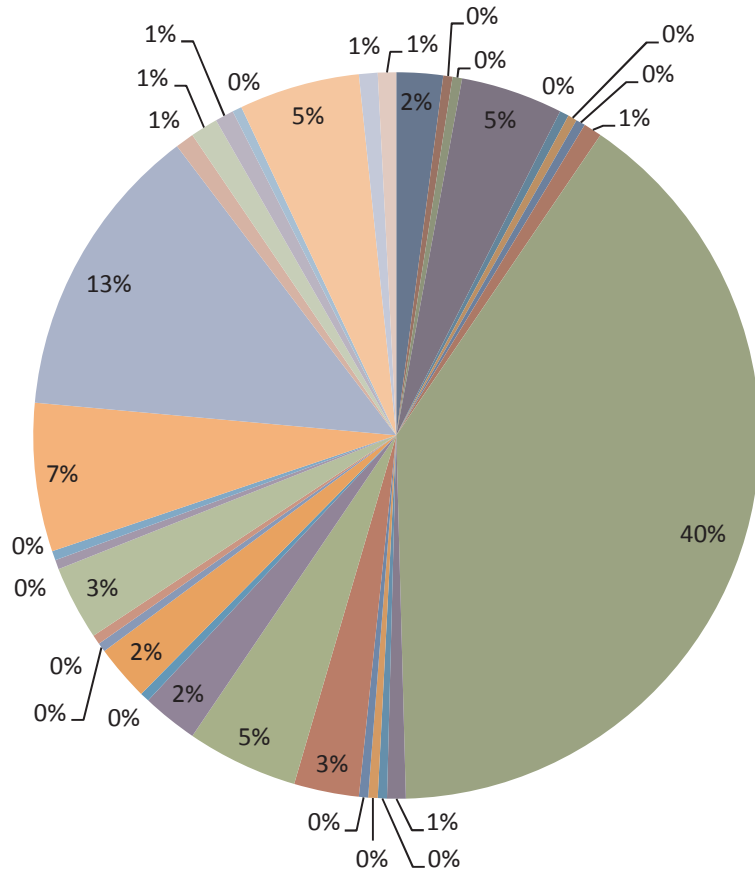
Just that simple...

The following charts present the complete information of all the rogatories the STJ has received from the United States since 2005.



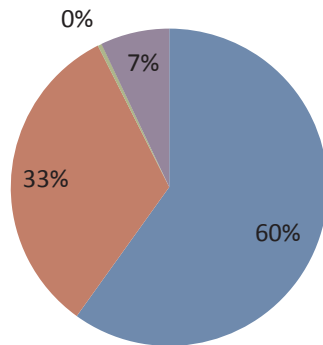
States of Origin

- Alabama
- Arizona
- Arkansas
- California
- Colorado
- Connecticut
- North Dakota
- Delaware
- Florida
- Georgia
- Mariana Islands
- Illinois
- Iowa
- Federal Court
- Louisiana
- Maryland
- Massachusetts
- Michigan
- Minnesota
- Missouri
- unidentified
- Nebraska
- Nevada
- New Jersey
- New York
- Ohio
- Oklahoma
- Pensilvania
- Tennessee
- Texas
- West Virginia
- Washington

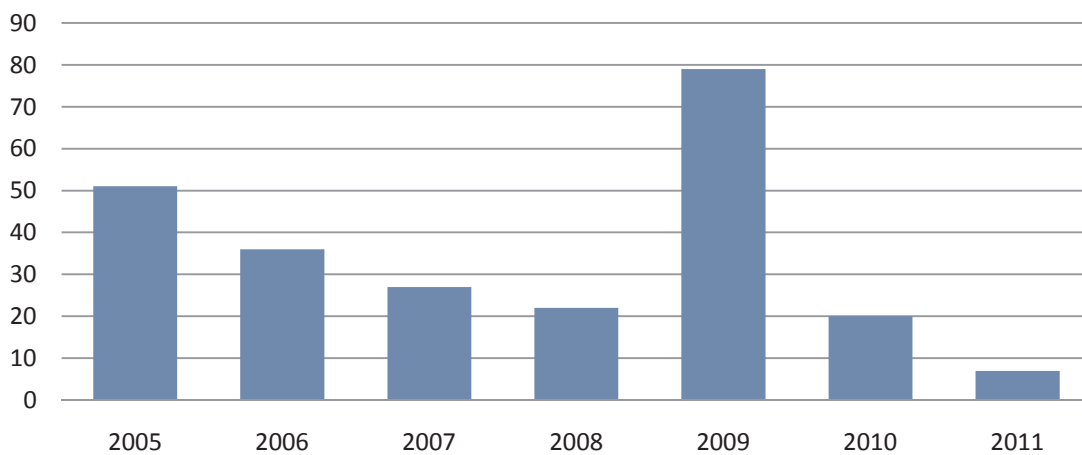


Decisions

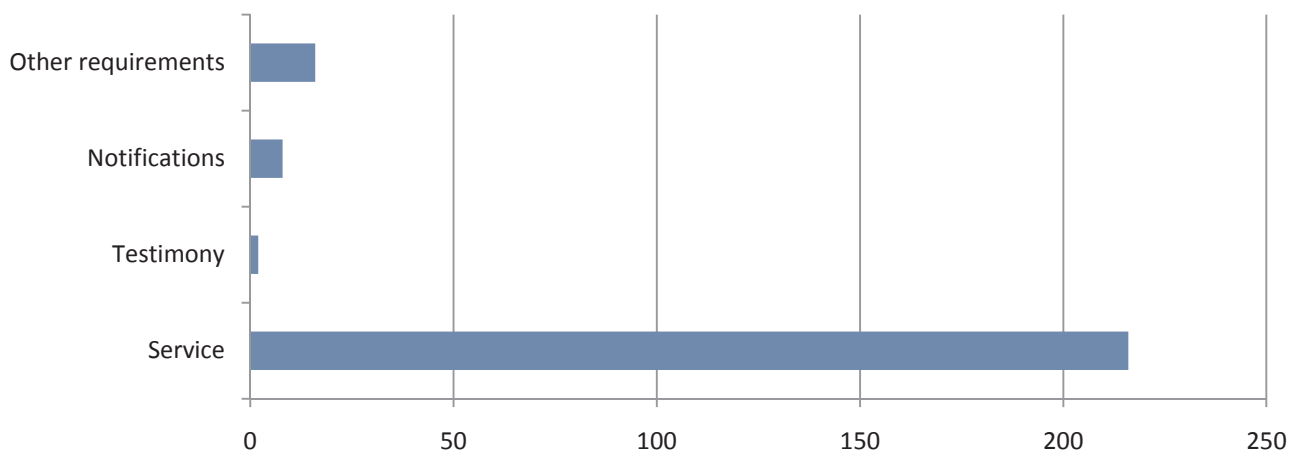
■ Favorable ■ Unfavorable ■ Half favorable ■ Haven't occurred yet or haven't been identified



Quantity/Years

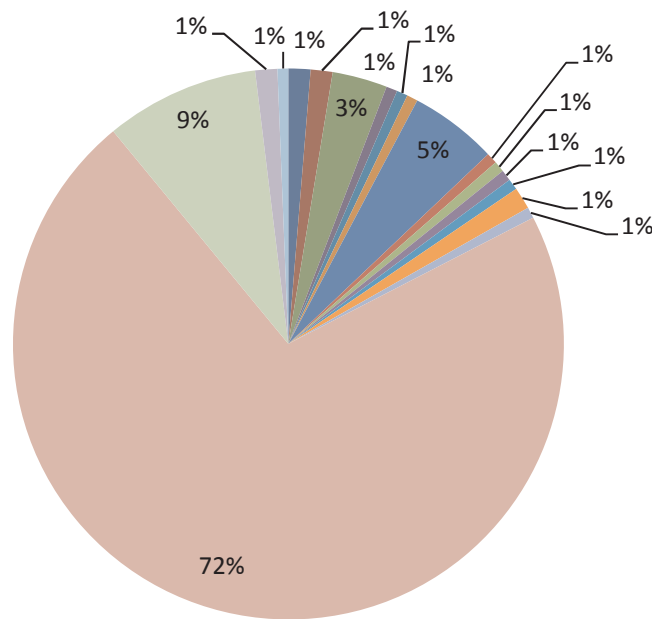


Requirements



Matters

- Reclamation
- Patents Break
- Adoption
- Bankruptcy
- Civil procedure third part intervention
- Arbitration
- Collectiv right procedure
- Contratual Breach
- Inheritance
- Divorce (Brazilian "separation")
- Nulity of marriage
- Divorce
- Taxes
- Paternity's test
- Execution
- Tort
- Life Insurance



PS: Important Observation

Why does Florida have such significant results?

Beside the fact that there are a lot of Brazilians living, making business and traveling there, this is directly related to a 2007 aircraft accident in Sao Paulo national airport. The victims' families decided to sue the airplane manufacturer in Florida, but the manufacturer alleged that the responsibility was on the Brazilian airport administration, namely the INFRAERO, a governmental company in charge of all the Brazilian airports. So, there were like 60 lawsuits against the aircraft manufacturer and in all of them rogatories were issued to serve INFRAERO, which clearly explains why Florida represents 40% of all Americans rogatories sent to Brazil.