

NEWS FROM THE FIRM

The Firm newsletter

Starting from this month, the firm will replace periodical alerts to clients with this comprehensive monthly newsletter summarising the main developments in Italian law in our areas of expertise.

Our finance and labour practices

The firm has recently established two additional practices: finance (by [Manfredi Leanza](#)) and labour (by [Alessandro De Palma](#)), in addition to its main focus on corporate/finance and technology, media and telecommunications laws.

Events

On 30 September 2015, at our Milan office, the labour practice group will host a breakfast meeting at which the Jobs Act reform will be discussed.

Recent publications

[Yahoo Italia S.r.l. and Yahoo! Inc. v. Reti Televisive Italiane S.p.A.](#), [2015] *E-Commerce Law and Policy* 1. A comment on this major case in which our firm has been safe involved.

[Closely Harbours in Europe: an update on the research and Bolar exemptions to patent infringement](#), [2015] *Nature* 33.

A comment on Bolar exemption in various jurisdictions.

CAPITAL MARKETS

New Corporate governance code

The Corporate Governance Code represents the main "soft law" instrument with respect to corporate governance principles. The Code provides that a Board of Directors must define the nature and the level of the issuer's risks consistently with its strategic objectives. The system of internal control and risk management has also been strengthened. Finally, the Code specifies that the procedures for the adoption of succession plans of executive directors should contain a clear definition of their objectives, means and timing. The code should be implemented by issuers by the end of the financial year which commences in 2016. The code is available [here](#).

PATENTS

Italy to join the UPC

Following the new approach of the Italian government to the **Unitary patent** and the **Unified Patent Court**, Italy has formally notified the Council of the EU of its intention to participate in the regime establishing the European patent with unitary effect and the applicable translation arrangements. For further information see [here](#).

CAPITAL MARKETS

New CNDCEC's guidelines and Article 6-bis of AIM Issuers' Regulation clarified

In July 2015 the professional body for Italian accountants (CNDCEC) issued guidelines to support AIM companies in the process of evaluating the appointment of auditors or auditing firms. The new CNDCEC guidelines are available [here](#).

FINANCE

NPLs recovery to be accelerated

On 20 August 2015, Law no. 132/2015 (the Law) was published in the Official Journal of the Italian Republic and passed into law, with amendments, as Decree-Law n. 83/2015. The Law introduces urgent measures for bankruptcy law, civil law, civil procedural law and the organization and functioning of the judicial system. The entry into force of these measures is expected, inter alia, to facilitate the writing off of Non-Performing Loans by the Italian banking system and to **significantly accelerate collection procedures**. These objectives are pursued by the introduction of: a) competitive bids and competitive proposals under work-out agreements (concordati preventivi); b) a new debt restructuring agreement (accordo di ristrutturazione); c) more stringent requirements for the appointment of a receiver (curatore fallimentare); d) simplified and extended lending market access for companies in financial distress; e) the right of the creditor to fully deduct credit losses in year one; and f) changes to procedures for asset sales in foreclosure.

LABOUR

Jobs Act reform becomes true

With the enactment of 4 decrees, the Italian Government has completed the **Jobs Act reform**. The main reforms can be found in Legislative Decree 14 September 2015, no. 148, which, among other things, extends the benefit of social security cushions/unemployment benefits, and Legislative Decree 14 September 2015, no. 151 concerning the "simplification of the procedures and administrative burdens on citizens and companies" which, among other things, provides for **more flexibility in the remote monitoring of employees' activity by the employer, and simplifies the procedures for resignation and termination by mutual consent** of an employment relationship. For further information see [here](#).

TRADEMARKS

Trademark and shape of common products

In two separate judgments both dated 27 July 2015, the Italian Supreme Court confirmed two previous decisions of the UIBM (the Italian Patent and Trademark Office) which rejected applications for figurative trademarks depicting the form of relevant products (grills). The Supreme Court reasserted the principle that **distinctive character is present whenever a trademark enables consumers to distinguish branded products and services on the basis of their commercial origin** (and not on their technical function or features). In accordance with this principle, the Court decided that the rejection of the application was correct, since the trademarks at issue (consisting of the typical form of a grill) would not enable consumers to distinguish the branded products from similar goods.

INDUSTRIES

FASHION

Validity of Louis Vuitton's models acknowledged

In two separate decisions dated 10 September 2015 (in [cases T-525/13 and T-526/13](#)) the General Court of the European Union confirmed previous decisions of the OHIM (the Office for the harmonization of the Internal Market), which acknowledged the validity of **two models of women's purses** for which Louis Vuitton had sought registration. Both applications had been contested by H&M (based on the alleged lack of individual character in respect of purses previously marketed by the claimant). The Court's judgment is based, inter alia, on the following assumptions: (a) the **relevant market sector (women's purses) is crowded** with products, so designers' creativity is necessarily limited, and consequently even small differences between models are sufficient to avoid confusion; (b) there were some differences between LV's and H&M's purses (particularly as regards general shape, structure and surface finishing); (c) such differences were sufficient to rule out the likelihood of confusion, judging from the standpoint of an "informed consumer" (considered to be a woman well acquainted with the market for purses).

TMT

Facebook and copyright

The Court of Rome recently ruled on copyright of Facebook user-generated content. According to the Court, content uploaded by users remains their property and platform managers (and other registered users) only hold a non-exclusive usage licence. In the case in question, a press company was ordered to pay damages of €600.00 for each unauthorized publication of user content (in this case photographs).

DPA survey on apps

The Italian Data Protection Authority contributed to a survey carried out by 29 European regulators on data protection and apps targeted at children. The results published by the regulators reveal that many websites and apps which are popular with children are collecting personal information without offering children and their parents adequate protective controls to limit the use and disclosure of such personal information, or a simple means of deleting an account permanently. Further moves in this field by the Italian Data Protection Authority are to be expected. For further information see [here](#).

TECHNOLOGY

New electronic signature

Regulation 910/2014/EU (the "Regulation") – to come into force on July 1st 2016 and replace Directive 1993/93/CE – will soon harmonize national standards for electronic identification and trust services (eIDAS), introducing an automatic mutual recognition among Member States' identification schemes, including the introduction of new **electronic seals** (which will apply only for identification of legal entities) and a new **advanced electronic signature**. The automatic mutual recognition of electronic identification schemes will become effective as of Autumn 2018. Before this date, the new rules will apply only to those national identification schemes that each Member State voluntarily notifies to the European Commission. For further information see [here](#).

Copyright enforcement in Internet

On 17 September, the Italian communication authority released data on the number of proceedings dealt with by the Authority in connection with the regulation of "protection of copyright on electronic communication nets". The Regulation, in force since 31 March 2014, set up a procedure for the protection of the copyright/neighbouring rights to audiovisual content, music, photographs, videogames, e-books and software made available to the public over the Internet.

If it is satisfied that a rights infringement has taken place on a website/webpage, the Authority may order the entity that uploaded the infringing content, the publisher of the website/webpage, and the service providers to remedy the infringement within 3 days by adopting suitable and proportionate measures. In certain cases, mere conduit providers (i.e. the access provider) may be ordered to prevent access to the relevant website/webpage (and to post a notice to users of a page stating that the website was blocked because of copyright infringement).

The Authority has dealt with 351 proceedings so far, 179 of which have been concluded with the removal of infringing content. Full data [here](#).

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