Forbes

Business

Why a Unified Patent Court in Milan can make a difference



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Davide Luigi Petraz and Daniele Giovanni Petraz

The chances of success for **Milan** as the headquarters of the **Unified Patent Court**; the growth of the sector in our country and its international projection; the skills consultants need in order to follow the evolution of the sector. We talked about these topics with **Davide Luigi Petraz** and **Daniele Giovanni Petraz**, co-managing partners at GLP, a law firm specializing in intellectual property.

Towards the unitary patent

In this regard, a short premise must be made. The unitary patent will be valid in all EU states without requiring validation of the individual contracting countries, as is currently the case with the European patent. Only Germany's approval is missing for the Agreement to enter into force, since this is the last country to not have ratified it yet. However, despite previous set-backs it seems to be moving in this direction. In fact, in the last few days there has been an important step forward in the process that will make the Unified Patent Court operational: the German Federal Parliament (Bundestag) has voted on and approved, with the required qualified majority, the bill ratifying the Unified Patent Court Agreement and its Protocol on provisional application. We now need to wait until the end of December to know the outcome of the final vote of the Federal Council (Bundesrat), which has been called upon to express its opinion on the issue for the second time.

The Unified Patent Court will have exclusive jurisdiction over the validity and infringement of both the new unitary patents and any future European patents after a transition period. The two headquarters confirmed to date are Paris and Munich; the third should have been London, but Brexit has changed the landscape and Italy has nominated Milan for this position, aided by the levels of specialization throughout the territory of Milan on the issues that will be the remit of this court, namely lawsuits in the pharmaceutical and life sciences sectors. *"The choice of Milan is logical not only because it is the only Italian city that has international credentials that are not based on tourism, but also because it is located in the Italian region with the highest number of patents filed in Italy (32%), because it is home to the Court where about 70% of patent disputes are concentrated, with a consequent high level of experience and specialization of its judges, lawyers and patent agents, and also because of its proximity to the offices in Paris and Munich. There are really many reasons"*, explains Davide Luigi Petraz, who also points out that most companies in the Italian pharmaceutical and chemical sector are concentrated around Milan.

A choice that can make a difference

A success for Milan would be important for the whole country, *"considering that 52% of pharmaceuticals sold in the European Union come from Italy"*, underlines Davide Luigi Petraz. *"On the contrary, a defeat could spell disaster for those Italian companies that are already in considerable difficulty and that would be required to adapt to the costs that have to be incurred for a patent litigation in Paris or Munich, as well as face new and further logistical and linguistic disadvantages"*.

To understand what could potentially change by switching to a system in which cases are discussed before a European patent court, especially if not located in Italy, taking the Italian market as a reference, it is enough to approximately triple the cost that an Italian SME has to face, on average, at present. It is important to remember that Italy has already lost the battle for the recognition of Italian as an official language of the new system.

If Italy fails to win the candidacy for Milan, Daniele Giovanni Petraz says, *"it might be reasonable to re-evaluate our presence in this system, which would have no advantages for any sector of industry. In fact,"* he adds, *"we should not forget that it is industry, both in its more traditional and modern expressions, that has to be protected most, since it is the main source of income of a nation and no thriving trade and advanced services sector can exist without it."*

The race for competitiveness

International competition is becoming increasingly decisive and complex, and our country needs protection tools that are able to impose the role of politics on that of the markets in such an effective way as to be at one with it, in terms of interests and results. Indeed, our industrial system is certainly not experiencing one of the

most prosperous moments in its history. The reality that other continents, as well as countries close to us, teach us is how everything related to the protection of innovation and knowledge must be considered as an important investment if we are to remain competitive.

The protection of inventions is a crucial aspect for competing on global markets. *"Intellectual property rights in Italy are too often perceived as a cost and not as an investment"*, underlines Daniele Giovanni Petraz, who invites us to change perspective: *"Intellectual property rights can be a winning strategy not only as a means of defence, but also as a means for attacking market shares, product sectors and competitors. This is often supported by the numbers and examples coming from abroad"*. There is a concrete need to provide the tools to support businesses as well as generate awareness of what it means to adopt certain strategies or not.

As for the future, Daniele Giovanni Petraz confirms the approach that has guaranteed them success until now: *"Every day,"* he concludes, *"we work to raise our quality standards by putting ourselves on the same side of the desk as our Clients, to provide them with a close and strategic partnership, not just a consultancy service"*.

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