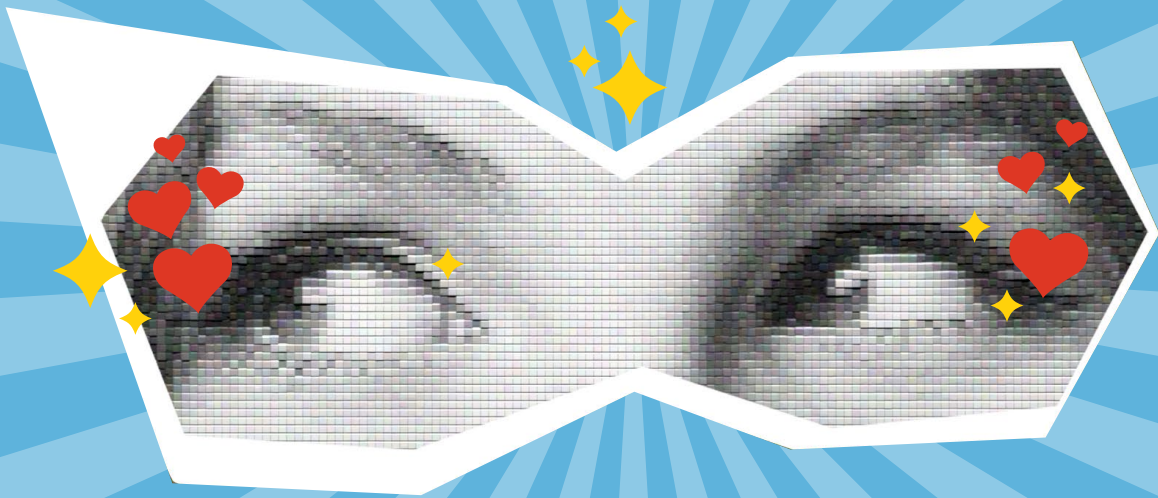




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“OCCHI SPACCANTI” AND “BUONGIORNO ESSERE SPECIALE”: BETWEEN MEDIA VIRALITY AND TRADEMARK PROTECTION

The recent case involving renowned Italian movie and TV series actor Raoul Bova has attracted significant public attention. Bova became the unwitting subject of widespread media exposure following the viral circulation of private messages and audio clips he had sent to a model (his official partner, too, is a model, but not the recipient of the messages!). These personal messages were made public by another well-known entertainment figure, seemingly without Bova's consent, sparking intense online discussion.

Among the expressions used by Bova, two in particular captured extraordinary media traction: “Occhi Spaccanti” (which can be translated into English as “Piercing eyes” although the adjective ‘spaccanti’ does not actually exist in Italian) and “Buongiorno essere speciale dal sorriso meraviglioso e dagli occhi spaccanti” (which can be translated into English as “Good morning special being with a wonderful smile and piercing eyes”).

These phrases rapidly gained popularity across major social media platforms. Users not only shared the audio clips but also created memes, sketches, and other derivative content. Some companies even repurposed the expressions for commercial gain.

For instance, Ryanair cheekily referenced Bova's message on its social channels with the phrase “*Buongiorno passeggeri dal sorriso meraviglioso e gli occhi spaccanti*” (in English: “Good morning passengers with a wonderful smile and piercing eyes”). Similarly, the well-known Italian football team SSC Napoli used the line “*with a wonderful smile and piercing eyes*” when unveiling a new player.

In response, Raoul Bova threatened legal action against both Ryanair and SSC Napoli, citing violations of privacy and unauthorized commercial use of his private voice messages - acts he claims have harmed his personal image.

On 5 August Bova took a proactive step by filing trademark applications in both Italy and the European Union for the phrases “*Occhi Spaccanti*” and “*Buongiorno essere speciale dal sorriso meraviglioso e dagli occhi spaccanti*.” These filings covered several classes of goods and services, ranging from cosmetics and apparel to advertising, event organization, and even weapons and ammunition.

Bova’s legal team framed the trademark strategy as a means to **halt the unauthorized circulation of the voice messages** and **prevent the commercial exploitation of the now-viral expressions**.

Can trademark registration truly achieve both of these objectives?

As is well known, the primary function of a trademark is to enable consumers to distinguish the goods and services of one business from those of others.

Trademark registration grants the holder exclusive rights to use the mark and to prevent others from using an identical or similar sign in the course of trade, for identical or similar goods or services.

However, these rights do **not** extend to addressing violations of privacy or the unauthorized dissemination of private communications, such as social media posts sharing personal voice messages.

These actions, however, may constitute criminal or civil offenses that must be addressed through criminal or civil proceedings in the appropriate legal forums.

Accordingly, the registration of Mr. Bova’s trademarks does **not** prevent the press or the general public from discussing the incident.

This is primarily because such usage would not qualify as trademark use - that is, use intended to distinguish one’s own goods or services in the marketplace from those of others.

Even under the interpretation advanced by Bova’s legal counsel, the media’s use of these expressions - for example, in newspaper articles - would likely be deemed **descriptive**

rather than commercial in nature. In other words, the phrases would be used merely to recount the events surrounding the actor, not as trademarks. Therefore, Mr. Bova would not be entitled to invoke exclusive trademark rights to suppress such usage.

Partial Success: Commercial Use Is a Different Story

It is therefore unlikely that Mr. Bova’s trademark registrations will achieve the first objective-stopping the public circulation of his messages. However, the second objective - preventing commercial use by third parties - may be more attainable.

Consider a scenario in which a third party prints the phrase “*Occhi Spaccanti*” on T-shirts or merchandise for commercial sale. In such a case, trademark protection could indeed be invoked to prohibit the unauthorized use of the phrase, provided that such unauthorized use confers an economic advantage to the user.

Indeed, trademark law allows the trademark holder to block commercial use of the mark by others if it occurs in the course of trade and seeks to derive economic benefit. Mr. Bova could therefore theoretically enforce his trademark rights to halt such unauthorized commercial exploitation.

Complications and Challenges

That said, there are several legal and practical challenges to consider.

Firstly, the Italian trademark application for “*Buongiorno essere speciale dal sorriso meraviglioso e dagli occhi spaccanti*” has passed the absolute grounds examination by the Italian Patent and Trademark Office (UIBM). The application for “*Occhi Spaccanti*”, however, is still under review.

It is also far from certain that the European Union Intellectual Property Office (EUIPO) will reach the same conclusion and approve the marks for EU-wide protection.

As is known, only signs capable of distinguishing the goods and services of one business from those of others may be registered as trademarks. While it is indeed

possible to register phrases or long expressions, they must serve as indicators of commercial origin - not merely as slogans or generic phrases.

This raises a critical question: **Can a lengthy phrase such as “Buongiorno essere speciale dal sorriso meraviglioso e dagli occhi spaccanti” genuinely serve to identify the source of goods or services in the market?**

If the EUIPO answers this question in the negative, the trademark will be denied registration.

Gaps in Trademark Coverage

Another issue concerns the **scope of goods and services** covered in Bova’s applications. Certain important classes were not claimed - such as Class 28 (toys) and Class 14 (jewelry).

If a third party were to use the phrase “Occhi Spaccanti” on a teddy bear or a bracelet, Bova would likely have limited recourse, having not included these classes in his application.

This scenario is not merely hypothetical: just days after Bova’s filings, the UIBM received two trademark applications for “Occhi Spaccanti” covering “unclaimed” classes, including 09 (electronics), 28 (toys), and 43 (hospitality).

Risk of Trademark Revocation

Yet another challenge is the risk of **revocation for non-use**.

Both Italian and EU trademark law require that a mark be genuinely used within five years of registration. Failure to do so - unless justified by valid reasons - may lead to the trademark being revoked. If Bova is unable to demonstrate real commercial use of the trademarks, third parties could initiate revocation proceedings for non-use, and, if such claims are successful, anyone could potentially appropriate the marks.

Conclusion

The trademark applications filed by Raoul Bova illustrate a compelling intersection of privacy rights, viral media phenomena, and intellectual property law.

While applying for trademark registration for “Occhi Spaccanti” and “Buongiorno essere speciale dal sorriso meraviglioso e dagli occhi spaccanti” cannot prevent public or media discussion of the events, it may serve as a valuable tool for curbing **unauthorized commercial use** of these now-famous phrases - provided the trademarks are successfully registered and actively enforced.

INVESTING IN INTANGIBLE ASSETS: THE TRUE CAPITAL OF MODERN ENTERPRISES



In recent years, the global economic landscape has undergone a quiet yet radical transformation: the focus of investment has shifted from tangible assets - machinery, real estate, infrastructure - to intangible ones such as **Research & Development, intellectual property, trade secrets, know-how, software, and databases**.

The **World Intangible Investment Highlights 2025 (WIIH 2025) report**, recently published by the **World Intellectual Property Organization (WIPO)** in collaboration with

Luiss Business School (LBS), clearly illustrates this evolution and leaves no room for doubt: we are in the midst of a profound economic shift in which a company's **true competitive edge increasingly lies in its intangible assets**.

The Unstoppable Rise of Intangibles

According to the WIIH 2025 report, global investment in intangible assets has **consistently outpaced** that in tangible assets, with countries like **Sweden and the United States leading the way** in intangible investment intensity, each exceeding **15% of GDP**. Between **2008 and 2024**, investment in intangibles grew **3.7 times faster** than in tangible assets. Looking further back, since **1995**, intangible investments have surged by **143%**, while tangible investments have grown by just **32%**.

In 2024 alone, investments in intangibles reached an impressive **\$ 7.6 trillion**, sustaining overall investment growth despite economic headwinds, uncertainty, and rising interest rates.

Perhaps most tellingly, the WIIH 2025 report notes that intangible assets have accounted for an **increasing share of global GDP** - surpassing tangible asset investment as a percentage of GDP for the first time in **2009**, with the gap widening ever since.

These figures are not mere statistics. They reflect a fundamental **paradigm shift** that businesses - large or small - must urgently integrate into their growth strategies.

Intangibles Matter More Than Machines

The WIIH 2025 report underscores a pivotal reality: today's most competitive companies are not defined by how many factories they own, but by the **strength of their intangible assets**.

- **Software and data** lead the charge, propelled by the explosive growth of **Artificial Intelligence (AI)**.
- **Organizational capital** - including management know-how and internal processes - accounts for **nearly one-third** of global intangible investments.

- **Trademarks and designs** have posted **double-digit growth** in recent years, underscoring the critical role of reputation and customer experience in value creation.

In essence, what makes a company **resilient and attractive** is no longer (just) what it physically owns, **but what it can create, protect, and leverage in the intangible domain**.

From Cost to Strategic Asset: Intangibles as Financial Leverage

A frequently overlooked point is that intangible assets are not just tools for innovation - they are becoming powerful **financial instruments**. More and more banks and investment funds are recognizing the value of intangibles as **collateral for financing**.

A well-structured portfolio of **patents, trademarks, designs, and documented know-how** can:

- Enhance the overall **valuation** of the company;
- Facilitate access to **dedicated credit lines**;
- Attract **investors and industrial partners**, eager to engage with companies whose technologies and brands are securely protected.

In this light, the management of intangibles is no longer a purely "technical" issue delegated to legal or R&D departments - it becomes a **strategic business decision**. It means treating patents, designs, trademarks, and know-how as **core business assets**.

A Strategic Opportunity Not to Be Missed

It is clear from the above that businesses worldwide should **strengthen their focus on intangible assets**, boosting their investments in this direction and transforming them into a **key engine of competitiveness and innovation**.

Our Call to Action

The trend is crystal clear: **intangible assets are no longer optional** - they are the beating heart

of the global economy. The businesses that will lead the markets in the coming years are those that know how to **invest in, protect, and maximize the value** of their intangible assets.

Now is the time to think beyond the physical. **Intangibles are shaping the future of business.**

*In this evolving landscape, we at **Interpatent** are ready to support our Clients with **tailored protection strategies for patents, trademarks, designs, trade secrets** as well as with **IP portfolio management** (monitoring, renewals, and enforcement) **and assessment.***

TRADE FAIRS AND EXHIBITIONS: HOW TO SAFEGUARD INNOVATION AND MITIGATE RISKS



Participating in trade fairs and exhibitions offers a valuable opportunity for entrepreneurs to grow their business and showcase their innovations. However, disclosing an invention too early during these events can jeopardize its patentability. To be eligible for patent protection, an invention must be novel, inventive, and industrially applicable. **Premature disclosure at a fair, if not properly managed, can strip the invention of its novelty** - making patent protection impossible.

To avoid this risk, it is crucial to **file a patent application before any public disclosure**. If early filing is not feasible, companies should present their invention in a way that **conceals its innovative aspects**.

For businesses with an existing patent portfolio, it is advisable to **review relevant patents and pending applications** before

attending a fair, to ensure the scope of protection covers the innovations on display. If the product incorporates improvements over a previous patent, a new application targeting those improvements should ideally be filed **prior to disclosure**.

Trade fairs also present a unique opportunity to **protect intellectual property** by collecting evidence of potential infringement. Some events provide **self-regulatory mechanisms** - swift procedures to identify and remove infringing content. These tools enable rapid response, avoiding lengthy and costly litigation. If legal action becomes necessary after the event, options include **cease-and-desist letters, interim measures, injunction orders, seizures, and withdrawals from the market**. Gathering clear documentation - such as dated photographs, eyewitness accounts, and promotional materials with a certain date - can significantly **strengthen your legal position**.

Another key consideration is to **assess the intellectual property rights of competitors**. Before exhibiting, it is strongly recommended to perform a **Freedom to Operate (FTO)** analysis to avoid infringing third-party rights. While ideally conducted during the product development phase, an FTO review remains valuable even shortly before a trade fair. The consequences of patent infringement can be severe, including **claims for damages or injunctions halting product commercialization**.

Among the many notable cases where trade fair disclosures played a critical role in patent disputes, one example is worth highlighting.

In **ruling no. 870/2024 dated March 15, 2024**, the **Court of Venice dismissed a claim against a machine tool company accused of infringing a competitor's patent on an electromechanical component**. The court found that **the allegedly infringing component had already been publicly disclosed by the accused company at a trade fair before the competitor filed their patent application**.

The key factor? The accused company was able to prove prior disclosure through witness testimony and photographic evidence.

Effectively managing intellectual property at trade shows requires a **well-defined, proactive strategy** - including careful attention to product communication and presentation. With the right preparation, companies can fully capitalize on the opportunities offered by exhibitions, while **safeguarding their innovations and supporting sustainable business growth**.

DESIGNEUROPA AWARDS 2025: CELEBRATING EXCELLENCE IN EUROPEAN DESIGN



A sumptuous award ceremony took place last week 23 September in Copenhagen, in partnership with the Danish Patent and Trademark Office, for the sixth edition of the **DesignEuropa Awards 2025**, the well-known competition, organised by the European Union Intellectual Property Office (EUIPO), that celebrates excellence in design among **holders of Registered European Union Designs**.

This year's competition drew over **1,250 submissions from 48 countries**, across categories such as Entrepreneurs and Small Companies (SMEs), Industry, and Next Generation (for designers under 29).

The Lifetime Achievement Award was given to the Dutch designer Hella Jongerius, in recognition of her long-standing and visionary contributions to contemporary design, especially in how she works with materials, craft, color, and integrating cultural narratives.

Finalists represent a mix of emerging and established designers and companies, entrepreneurs like Paul de Livron, Kavčič and Overade, and industry players such as Cecotec, Ciarko Design and Fastned.

The Awards are not just about prestige; they spotlight design as a crucial component of innovation, competitiveness, and visual identity in European industry.

Last week's celebration of design creation was the first taking place after the recent changes in EU Design law, the so-called **EU Design Protection Package, which has recently entered into force**.

The legal changes introduced by the Design Package have **modernized, broadened and clarified design protection** in ways that can be substantially beneficial, but also complex to navigate.

The Reform substantially consisted of changes seeking to adapt design protection to modern

realities (digital, 3D printing, distributed manufacturing, etc.), help designers (especially SMEs and individual creators) by reducing complexity and costs, and balance protection with public interest (repair markets, etc.).

For designers, creative enterprises, and institutions, now more than ever, proactively securing design rights, with **good legal advice on the part of local counsels**, is not just valuable, it is essential.

Given the evolving legal landscape, for many designers, SMEs, and multinationals operating in the EU, this is a key moment to **rethink design protection strategy**.

If your clients are looking to file, defend, or review their EU design rights under the updated framework or consider national design protection as an alternative or additional protection, do not hesitate to contact us and we would be very happy to be of help.

MONTENEGRO JOINS THE LONDON AGREEMENT

As a result of Montenegro's accession to the London Agreement on 1 August 2025, for European patents granted on or after said date and to be validated in said country, a Montenegrin language translation of the entire patent text is no longer required, provided that the EP specification is in English, but only a Montenegrin language translation of the claims will have to be provided.

Montenegro's accession brings the number of contracting states to the London Agreement to 23, confirming the European trend toward simplifying and reducing patent validation costs, which once used to be remarkably high and thus strongly affected the validation strategies of EP patentees.



The aim of this newsletter is to keep our Clients and Associates updated about developments in the sector of Intellectual Property in general and our firm in particular. In this way, we wish to provide a broader view of the tools that the field of trade marks, domain names, patents, designs and related rights offers to entrepreneurs to enhance and protect their efforts in researching and developing new solutions and ideas.



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