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ITALIAN CUISINE BECOMES AN INTANGIBLE CULTURAL HERITAGE OF HUMANITY

UNESCO (the United Nations Educational, Scientific and Cultural Organization) has officially included Italian cuisine in the Representative List of the Intangible Cultural Heritage of Humanity. Meeting in New Delhi, the Intergovernmental Committee approved the inscription of the nomination entitled **“Italian cuisine between sustainability and bio-cultural diversity”**, thereby ratifying the positive evaluation issued in November.

This recognition is due to the impetus provided by public institutions - the Italian Ministry of Agriculture, Food Sovereignty and Forestry and the Italian Ministry of Culture - as well as by scholars of Italy’s culinary heritage, such as the “Collegio Culinario”, a cultural association for Italian food and wine, and “Casa Artusi”, which submitted the nomination in 2023. They deemed Italian cuisine worthy of recognition for the principles and values it promotes, including the fight against food waste and the reduction of resource consumption.

Italian cuisine thus becomes the **first cuisine in the world** to be recognized **in its entirety**.

In the past, only individual culinary practices or techniques - some of them Italian - had been honored, rather than a culinary tradition as a whole.

Among these are the Mediterranean Diet (2013), the *alberello* vine practice of Pantelleria (2014), the art of the Neapolitan *pizzaiuolo* (2017), and truffle hunting and extraction (2021).

Recognized by UNESCO as a paradigm of inclusivity and sustainability, Italian cuisine stands out as a daily practice that brings together diverse communities, preserves biodiversity, minimizes waste, and celebrates the cultural plurality of local territories.

The highest offices of the Italian State have expressed their appreciation for this recognition, emphasizing that Italian cuisine *“is not merely something done at the stove, but represents our identity, our history, and our culture”*.

Italian cuisine is also undeniably a powerful

driver of development and well-being. Suffice it to note that in 2024 Italian agri-food exports reached new records, amounting to **€70 billion**, with strong growth driven by iconic products such as wine, pasta, cheese, olive oil, fruit, and meat. This confirms “Made in Italy” as a global leader thanks to quality, tradition, and innovation, with non-EU markets showing particularly strong momentum.

The inclusion of Italian cuisine on the Intangible Cultural Heritage List also represents a commitment to safeguarding this heritage over time through research, food education, school projects, and culinary memory archives.

Moreover, the recognition serves as an **additional tool in the fight against Italian Sounding**.

Italian Sounding refers to a deceptive commercial practice aimed at imitating products - especially food products - that appear Italian but are not, by exploiting names, colors, images, and symbols that evoke Italy in order to mislead consumers.

UNESCO’s recognition of Italian cuisine represents an extremely effective weapon against the phenomenon of Italian Sounding. It enhances the cultural value and authenticity of gastronomic Made in Italy, promoting the storytelling of its history, its territories of origin, traditional recipes, and anti-waste practices. In this way, it shifts competition from a purely commercial level to a cultural one, promoting authentic supply chains and raising awareness among foreign buyers and consumers of the quality and uniqueness of true Italian cuisine.

It should be emphasized, however, that UNESCO’s recognition is not granted to individual dishes or recipes, but to a way of sharing meals, of cooking, of identifying oneself, and of conceiving food.

For Italians, conviviality, the pleasure of sitting around the table, and the ritual of cooking with family or friends have always been central elements of gastronomic and social culture.

And we are proud of it.

MIO/KONEKTRA (CJEU, 4 DECEMBER 2025): COPYRIGHT PROTECTION FOR APPLIED ART



On **4 December 2025**, the **Court of Justice of the European Union (CJEU)** delivered its judgment in the joined cases **C-580/23 (Mio)** and **C-795/23 (Konektra)**, clarifying key principles governing the **copyright protection of works of applied art**, including functional and industrial design products.

The cases originated from disputes in Sweden and Germany involving furniture manufacturers alleging copyright infringement through the sale of virtually identical products. The CJEU's ruling, following Advocate General Szpunar's May 2025 opinion, establishes an EU unified framework for determining when industrial designs qualify for copyright protection and when such protection is infringed.

The long-awaited judgment of the Court of Justice of the European Union in Mio/Konektra brings welcome clarity to the following three core questions:

- (1) the copyright treatment of works of applied art;
- (2) how copyright subsistence must be proven; and

(3) how copyright infringement should be assessed.

1. Applied Art and Copyright: Originality as the Sole Threshold

The first and arguably most consequential issue concerned the requirements for copyright protection of works of applied art. The Court confirmed unequivocally that works of applied art must be treated no differently from any other category of works.

Originality is the only requirement for copyright protection, and no additional qualitative or aesthetic thresholds may be imposed.

This clarification has immediate structural consequences.

Member States whose copyright laws still contain heightened requirements for applied art might need to amend their legislation. A typical example is Italy, whose statutory requirement of “artistic value” now sits squarely at odds with EU law.

While this aspect of the judgment may appear largely formal, it represents a decisive step toward eliminating long-standing national divergences and ensuring a truly uniform standard across the internal market.

2. Proving Copyright Subsistence: What Originality Really Means

The Court then turned to the more complex question of how originality is to be established in practice.

Responding to a list of potential factors identified by the referring court - such as the author’s intentions, the existence of alternative designs, derivation, or post-creation circumstances - the CJEU declined to endorse any rigid checklist. Instead, it held that the relevance of such elements depends entirely on the circumstances of each case.

The guiding principle is clear: any evidence capable of demonstrating that the work is the result of free and creative choices reflecting the author’s personality may be taken into account.

At the same time, the Court reiterated an important boundary. Originality is not synonymous with aesthetic appeal. The fact that a design produces a visually striking or artistically significant effect, beyond its functional purpose, is not in itself sufficient to qualify it as a protected work.

Crucially, the Court also emphasised the claimant’s burden of proof. Copyright protection cannot be assumed. A party alleging infringement must first demonstrate why the work qualifies as protected subject matter: **the creative nature of the author’s choices cannot be presumed.**

Finally, the Court dismissed the autonomous relevance of the author’s intentions. Intentions remain in the realm of ideas and are only relevant insofar as they are expressed in the work itself. What ultimately matters is whether the finished work reflects the author’s personality through free and creative choices, not what the author set out to achieve.

3. Proving Infringement: Recognisability as a Safeguard

The judgment concludes with guidance on infringement.

While reaffirming the originality-based test, the Court introduced an important safeguard: the original elements that have allegedly been copied must be recognisable in the infringing work. In other words, infringement cannot be established merely by abstract similarities; it requires that the author’s original creative choices are perceptible in the contested design.

This recognisability requirement serves as a practical counterbalance, ensuring that copyright protection does not extend beyond its legitimate scope and preserving room for independent creation.

Key Legal Developments from the Judgment

➤ Free choices are necessary, but not sufficient

The CJEU reaffirmed that a work of applied art may qualify for copyright protection if it reflects the **author’s free and creative**

choices, meaning choices that are **not dictated solely by technical, functional or regulatory constraints**.

However, the Court expressly clarified that:

- **the mere existence of free (non-technical) choices is not enough.**

To qualify as a protected work, those choices must also be **creative** - i.e. they must reflect the author's personal intellectual contribution.

- **Uncertainty around “creativity”**

Crucially, the Court **did not provide concrete guidance** on:

- what exactly constitutes “creativity” in applied art, or
- how national courts should assess it in practice.

This lack of operational criteria leaves substantial room for interpretation at national level and increases **legal uncertainty** in enforcement and litigation.

Practical Consequences for IP Strategy

- **Documentation becomes critical**

Given the absence of a clear creativity test, the judgment strongly underscores the importance of:

- documenting the **creative decision-making process**,
- preserving sketches, prototypes, mood boards and design alternatives,
- evidencing why certain aesthetic choices were made and which alternatives were available.

For rights holders intending to rely on copyright protection for applied art, **evidence of creativity may be decisive**.

Infringement: A Shift Away from “Overall Impression” Tests

On infringement, the CJEU clarified that courts must assess whether **protectable creative elements** of the work have been taken.

This has **important practical implications** for certain Member States where courts traditionally focus on the **overall impression** of the objects.

For example:

- In the **Netherlands**, copyright infringement in applied art cases has often been assessed on whether the allegedly infringing product creates the same or a similar overall impression.

The Mio/Konektra ruling indicates that such approaches must be **reoriented** toward a more analytical assessment of:

- which elements are protected by copyright, and
- whether those specific creative elements were reproduced.

Why Local Counsel Is Essential

Although Mio/Konektra establishes EU-wide principles, its application remains **highly dependent on national courts**:

- Courts may differ significantly in how they interpret “creativity”;
- Evidentiary requirements and procedural standards vary;
- National infringement tests may need adjustment in light of the ruling.

- **For foreign IP firms**, this judgment highlights the importance of **early collaboration with local counsel**, particularly when:

- advising on EU-wide design protection strategies,
- preparing copyright-based enforcement actions,
- coordinating copyright, design and trademark claims.

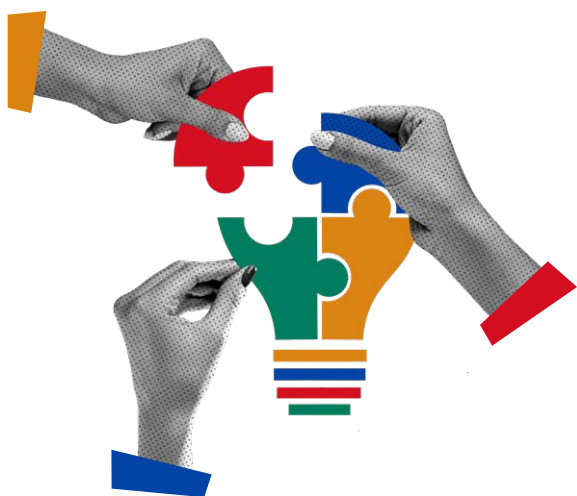
Key Takeaways

- ✓ Do not assume that “non-functional design” automatically equals copyright protection
- ✓ Advise clients to document creative choices from the outset

- ✓ Expect divergent national applications of the creativity test
- ✓ Work closely with local counsel to align strategy with national practice

Our attorneys would be delighted to provide you with more information and assistance in the matter of design and copyright protection.

JOINT OWNERSHIP OF A PATENT: INSTRUCTIONS FOR USE



It is often said that unity is strength. In the world of innovation, this is almost a rule: collaborations between companies, technological joint ventures, and research projects between universities and private entities are important drivers of progress. However, when a brilliant idea is born from multiple minds or multiple wallets, a far from trivial legal issue arises: **joint ownership of a patent**.

Managing a jointly owned invention can in fact turn into a minefield and, without clear rules, what was a strategic asset risks becoming an inexhaustible source of disputes.

Indeed, numerous operational issues may arise in the case of a jointly owned patent, including - just to name a few - the choice of a strategy for extending the patent abroad, the management of patent maintenance, or the granting of patent licenses.

In Italy, the cornerstone of the matter lies in **Article 6 of the Italian Industrial Property Code**, which establishes a fundamental principle of referral: if an industrial property right belongs to more than one party, the related powers are governed by the rules of the Italian Civil Code

concerning **co-ownership**, insofar as they are compatible.

This referral to Articles **1100 and subsequent ones of the Italian Civil Code** is not without friction. The nature of a patent, an intangible asset by definition, sometimes fits poorly with rules originally designed for the management of tangible assets (such as agricultural land or buildings).

With regard to the disposition of the patent, according to well-established case law, joint ownership of a patent - unless otherwise agreed - requires **the unanimous consent of all co-owners for the granting of an exclusive license or for assignment**, since such acts deprive the other co-owners of their right of direct enjoyment. These acts are therefore considered to exceed ordinary administration and require unanimity (Article 1108, paragraph 3, of the Italian Civil Code). It is evident that the potential “cross-veto” resulting from this situation risks paralyzing the commercial exploitation of the patent, turning an opportunity into a cost.

As for the right to implement the invention, a relatively recent and extremely significant reference point for understanding the autonomy of co-owners is the **decision of the Italian Supreme Court (Corte di Cassazione) No. 4131 of 18 February 2025**. This ruling establishes that, in the case of **joint ownership of a patent**, even **the productive exploitation of the invention by a single co-owner requires the unanimous consent of all the other co-owners**.

Specifically, the Court held that a single co-owner may not autonomously initiate the productive exploitation of the patented invention, as this would alter the intended use of

the common asset and infringe the exclusive rights of the other co-owners.

The judges clarified that the exclusive right, which is normally exercised against third parties, in the context of joint ownership implies that no co-owner may exclude the others from equal enjoyment. This, in turn, entails joint decision-making on the methods of exploitation. The decision is therefore based on an interpretation of the exclusive right as one that would be lost for the other co-owners if unilateral exploitation by a single co-owner were allowed.

The ruling thus constitutes a brake on the unconditional use of the patent by a single co-owner, imposing a further clear limit on the exploitation of the patent in cases of joint ownership.

Despite these judicial clarifications, “bare” joint ownership - that is, joint ownership not governed by private agreements - presents **risks and complications** that any company would prefer to avoid, often resulting in **disputes and litigation**.

Given the regulatory complexity and the orientations of the Italian Supreme Court, the solution does not lie in avoiding collaboration, but rather in **regulating it in advance** through a **Joint Ownership Agreement**.

A well-drafted Joint Ownership Agreement should address the following key points:

- **Allocation of Shares:** Not merely relying on the presumption of equality under Article 1101 of the Italian Civil Code, but defining shares based on the actual contribution (economic or inventive).

- **Management of Expenses:** Establishing a fund or appointing a lead party responsible for administrative payments, with clear penalties in the event of default.
- **Licensing Regime:** Providing for the possibility of granting non-exclusive licenses to third parties without prior consent, subject to an agreed allocation of royalties.
- **Exit and Buy-Out Clauses:** Regulating what happens if a co-owner decides to leave the project, granting the others a right of pre-emption on the leaving party's share.
- **Litigation Management:** Defining who assumes strategic leadership in legal actions, preventing procedural disagreements from weakening the patent's enforcement strength.

In conclusion, collaboration in the patent field represents an important opportunity for growth, but the resulting joint ownership cannot be left to improvisation. Italian law, while providing a basic framework, requires specific contractual integration to adapt to market dynamics. As demonstrated by the Italian Supreme Court's Decision No. 4131/2025 referred to above, the law intervenes to resolve conflicts, but **true efficiency lies in prevention**. Careful legal planning is not merely a safeguard, but a true value multiplier for patent owners' portfolio.

Our firm can provide assistance in negotiating joint ownership agreements and managing complex patent portfolios. We are available to analyze your Clients' jointly owned patent assets and ensure maximum protection thereof.

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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