

Name/NRG/ Standing Committee	Proposed topic	Panel Session (Sydney 2017) or a Study Question (Cancun 2018)?	Relevance/importance of topic	Issues arising or to be explored	Any suggestions for panellists (if a proposal for Panel Session) and why
NRG Italy	Affixing the trade mark on goods for export: the different rules in Europe, the United States and China	Panel Session  (Trade marks)	This topic deals with a question of specific interest in shaping the borders of the scope of protection of trade marks, i.e. if trade mark holders must be given the right to prevent third parties from using the sign for goods not addressed to the local market. EU laws are in favor of a broad protection of trade mark holders, giving them the right to also act against export goods; other jurisdictions may prefer to allow local manufacturers to freely produce such goods. A panel session on this topic could be the occasion of a stimulating comparison between different approaches (e.g. Europe, the US and China) and a debate on what choices are more efficient under an economical and juridical point of view.	i) Scope of protection of trade marks and acts of infringement with regard to goods not addressed to the local market of the country where the trade mark is protected; ii) Strengthened protection of trade mark holders against trade mark uses which do not affect the trade mark functions in the territory of registration and protection; iii) Balance between exclusive rights of trade mark holders, commercial activities	

				of third parties and consumer interests.	
NRG Italy	Web infringement and small consignments	Panel Session  (Trade Marks)	The issue of infringing goods purchased on the web is still a hot topic. EU and national case laws have frequently addressed the problems of trade mark infringement (prerequisites and consequences) in case of on line purchase by consumers in the EU of infringing goods that are shipped to Europe from non-EU countries. This phenomenon also involves issues of customs law and the activities of the customs authorities. The recent EU Regulation on customs enforcement of IP rights (No. 608/2013) contains specific procedures in case of importing into the EU small consignments of goods. This procedure has raised debate, as some fear that it may not protect adequately the interests of trade marks holders. A session on this topic would be very interesting in order to compare trade mark law and customs law and to study their respective answers to one of the most widespread forms of infringement. While of specific interest for EU attendees, especially in the part regarding the small consignments procedure, this topic could also be attractive for attendees from jurisdictions in which similar problems of customs measures arise.	i) Status of the case law on the forms of trade mark infringement on the web; ii) Customs measures in case of web infringement; iii) The recent EU Regulation on customs enforcement of IP rights and the small consignment procedure; iv) Pros and cons of the EU Regulation; v) Intersection of trade mark law and customs law in cases of web infringement.	
NRG Italy	Big data and IP rights	Study Question or Panel Session  (Copyright)	The Big data industry is expected to grow dramatically in the next few years in Europe and elsewhere	Data itself cannot be protected by copyright. However, in Europe (only) an exclusive (sui generis) right on compilation of data is granted under certain conditions. Also trade secret protection can	

				<p>apply to big data. On the other hand, personal data protection law limit to a certain extent the processing of big data. Issue to be explored:</p> <p>(a) how/if current (copyright/trade secret) laws protect big data in EU and other jurisdictions; (b) if this protection is sufficient/suitable for the industry;</p> <p>(c) if the current legal framework (also considering personal data protection law and fair use) is balanced</p>	
NRG Italy	Ownership and co-ownership of data in crowdsourcing, open source and cloud systems	Panel Session (Copyright)	The exploitation of big data is often carried out through crowdsourcing, open source and cloud systems. Questions on ownership of the data and on the result of the relevant processing arise	In Europe an exclusive (sui generis) right on compilation of data is granted under certain conditions. Also trade secret protection can apply to protect big data. When the collection/processing	

				<p>of the data is carried out thank to the contribution of a number of players (in various phases: collection, processing, storage) the issue of ownership of data arises. Issues to be explored: (a) ownership of big data in crowdsourcing systems; (b) ownership of big data in open source systems; and (c) ownership of big data in cloud systems</p>	
NRG Italy	Criminal and administrative protection or enforcement in copyright	Panel Session (Copyright)	In several jurisdiction copyright is protected not only through civil remedies, but also through criminal and administrative proceedings. This session may provide the attendees with an useful overview on the situation in countries that have these forms of enforcement.	<ul style="list-style-type: none"> <li>i) Criminal proceedings and remedies for copyright protection;</li> <li>ii) Administrative forms of protection for copyright; iii) Comparison between criminal/administrative remedies and civil remedies in copyright;</li> <li>iv) Rights of defense in criminal and administrative</li> </ul>	

				proceedings in copyright cases and compliance of such proceedings with international treaties.	
NRG Italy	SPCs in view of the EUCJ Forsgren Decision	Pharma Session	<p>The Decision of the CJEU provides new inputs on allowability of SPCs for complex drugs.</p> <p>The Decision deserves a deep analysis with respect to previous Decisions given by the CJEU. Knowledge of implementation and interpretation by EPC National Courts is essential for patent lawyers and attorneys dealing with pharma.</p>	<ul style="list-style-type: none"> <li>- Combination medicaments and covalent bound- drugs: patents, scope of protection and SPC.</li> <li>- What is the marketing authorization adequate to support the grant of a SPC on a covalent bound-drug?</li> <li>- Vaccines, adjuvants and SPCs</li> <li>- Update of national Decisions on SPCs: UK, DE, FR, IT , ES</li> </ul>	
NRG Italy	Experimental use exception, contributory infringement and bulk producers	Study Question or Pharma Session	<p>The experimental use exception has not been interpreted homogeneously by TRIPS States . A relevant part of research leading to patentable matter in the pharma field comes from academics, then the issue is of specific interest. Moreover some States, as Italy, have different rules for experimental use exception and for regulatory exemption.</p> <p>The impact on patent infringement by generic or bulk production companies is of high interest world wide, and</p>	<ul style="list-style-type: none"> <li>- Experimental use exception: the genesis of the rule and its implementation.</li> <li>- Experimental rule exception and regulatory exemption: are they different?</li> </ul>	

			specifically in Italy.	<ul style="list-style-type: none"> <li>- Compassionate use of drugs: experimental use or infringement use?</li> <li>- Contributory infringement and liability of drug bulk producers.</li> </ul>	
NRG Italy	Relevance of the technical problem in patent applications	Panel Session (Patents)	<p>This is a topic of increasing interest in several jurisdictions where consideration is given to whether the technical problem is indicated or not in the patent and positions are maintained whereby the lack of such indication in the text of the patent is relevant in assessing the patentability and, specifically, may lead to a negative decision on the existence of an inventive step. At the same time some deem that the mere indication of a previously unknown problem may per se imply inventive step even if the means to solve the problem are obvious. A connected question is that of the possible reformulation of the technical problem by offices and courts, in the sense that such bodies could state that the objective, real problem solved by the patent is actually different to that indicated by the applicant. As these issues and their implications may be decisive in determining the validity of a patent and its scope of protection, it could be useful to have a session on them.</p>	<ul style="list-style-type: none"> <li>i) Need that the technical problem is indicated in the patent or is at least evident in it; ii) Consequences of a missing indication of the technical problem and the way this may affect the requirements for validity of a patent (also the inventive step); iii) Possible reformulation of the technical problem by patent offices during examination or opposition proceedings or by courts during judicial proceedings.</li> </ul>	
NRG Italy	Rules in patent examination: a comparison	Panel	Rules in patent examination by national or regional offices may vary and practitioners may be faced in foreign	<ul style="list-style-type: none"> <li>i) Main rules on patent examination in</li> </ul>	

	between EU (EPO), the United States and Japan	Session (Patents)	jurisdictions to rules different to those they are acquainted with. This session could be useful to give practical information and to provide a quick guidance on the different rules.	different jurisdictions; ii) Comparison of the different rules; iii) Practical pros and cons of the various rules.	
NRG Italy	Opposition proceedings and post grant patent amendments: a comparison between EU (EPO), United States and Japan	Panel Session (Patents)	A topic constantly discussed in the patent field, also for its great importance under a practical point of view, is that of how the text of a patent can be amended, re-written, limited, etc. in the course of opposition proceedings and/or post grant, in particular in the course of limitation proceedings before the Patent Offices or before the courts. For example, in Italy the law expressly provides that the patent owner may either limit the patent before the Italian PTO or present in the course of judicial proceedings a set of limited claims in order to overcome reasons for invalidity. This creates a tension and a need to find a right balance between the interests of the patent owner in safeguarding, at least partially, the exclusive rights on the patent and the interests of third parties to avoid that an apparent limitation conceals an undue broadening of the scope of protection. A Panel Session on this topic could give valuable insights on a matter which is often crucial for the outcome of patent litigation and be the occasion for a comparison between the local situation in different jurisdictions.	i) Possibility to amend the patent in the course of opposition proceedings; ii) Possibility to limit the granted patent through a petition of the patent owner before the competent Patent Office; iii) Possibility to limit the granted patent in the course of proceedings before a Court; iv) Criteria to distinguish proper and admissible limitations from apparent limitation concealing an undue broadening of the scope of protection; v) Comparison between the legislation	

				and the praxis in different jurisdictions.	
NRG Italy	International Application under the PCT - Provisional protection prior to and after publication: an overview in major jurisdictions (Europe, USA, China, Japan)	Panel Session (Patents)	This Panel Session would focus upon the PCT system and explore how the invention which is the subject-matter of an International application is provisionally protected before and after its publication in various jurisdictions, with particular attention to the issues of enforceability and compensation. The Session would provide the attendees with an overview of the rights deriving from an International Application in the major jurisdictions and then move on to specific arguments, in particular the entitlement of the owner of the Application to preliminary injunctions or other interim measures, as well as to compensation claims. Procedural issues like the impact of the language of publication and the timing of entering the national/regional phase would also be considered.	<p>i) Provisional protection of an International Application (PCT) before and after publication.</p> <p>ii) Overview of the provisional protection of an International Application in selected main jurisdictions.</p> <p>iii) Entitlement to preliminary injunctions, other interim measures and compensation based on an International Application.</p> <p>iv) Procedural issues: in particular the impact of the language of publication and the timing of entering the national/regional phase.</p>	
NRG Italy	Agrifood, patents and new	Panel	This topic is of great importance in numerous countries, including Italy. It concerns the innovation and the new	i) Innovation and new technologies in	



	plant varieties	Session (Patents)	technologies in the field of Agrifood and the role they have in ensuring a sustainable and sufficient supply of food worldwide, while keeping at the same time the necessary standards of quality, safe and healthy food. The Session could give an overview of research and innovation in Agrifood, particularly focusing on hot issues like biotech research, employment of GMOs and the need of preserving biodiversity. The Session could then discuss the role of patent and new plant varieties protection in Agrifood, as well as regulatory issues and the interface between IP rights and other sets of rules like those contained in the Rio Convention on biodiversity and the relative Protocols. The Session would be of great interest for the attendees and, while also touching the laws on plant varieties, would not duplicate the Rio Panel Session on plant varieties protection.	<p>Agrifood;</p> <p>ii) Role of patent and new plant varieties protection in Agrifood;</p> <p>iii) Biotech research in Agrifood: prerequisites, limits and scope of patent and new plant varieties protection;</p> <p>iv) GMOs in Agrifood: patent and regulatory issues;</p> <p>v) Rules on preserving biodiversity and the relationship with IP rights;</p> <p>vi) IP rights and food safety.</p>	
NRG Italy	Developments in trade secrets protection: a comparison between Europe and the United States	Panel Session (Patents)	In 2016 the EU adopted the Directive no. 2016/943 on the protection of trade secrets against their unlawful acquisition, use and disclosure. A panel session on this topic could examine the main provisions of the new Directive, assessing its impact in the EU Member States, as well as making a comparison with the most recent developments in the United States.	<p>i) Objectives and key provisions of the EU Directive on the protection of trade secrets;</p> <p>ii) Impact of the Directive in the EU Member States;</p>	

				<p>iii) Relationships between trade secrets protection and patent protection in the light of the Directive;</p> <p>iv) Recent developments in trade secrets protection in the United States;</p> <p>v) Comparison between Europe and the United States: similar points and differences.</p>	
NRG Italy	Mock hearing before the (next-to-come) Unified Patent Court (UPC) focused upon a case-study discussion of contributory/indirect infringement.	Panel Session (Patents)	<p>This Panel Section would open with an overview of indirect infringement law and case-law in selected major jurisdictions (EU countries, USA, China, Japan) and would then continue with a mock debate during a simulated hearing of the UPC concerning indirect infringement as set out in Art. 26 of the UPC Agreement.</p> <p>The topic is of relevance because the national laws of EU countries have been amended to take into account the terms of the UPC Agreement, which, among the other issues, allows the application of indirect infringement also in absence of the actual final infringement act (actuation of the invention may fall within one of the exceptions established by law).</p>	<p>i) How indirect infringement is dealt with in selected major jurisdictions (EU, USA, China, Japan, ...).</p> <p>ii) Which are the specific criteria applied in terms of “univocal” destination of the supplied means, both for product and process claims to be assessed and with attention to partial acts of alleged infringement taking place in different</p>	

				<p>countries.</p> <p>iii) Application of Art. 26 of the UPC Agreement in specific case-scenarios dealing with different technical fields and diverse nature of the “means” provided.</p>	
NRG Italy	EPO appeal procedure: do we need better proceedings in terms of exhaustive review of the case and of guarantee of the defendant’s right to be heard?	Panel Session (Patents)	This Panel is focused upon recent case-law of the EPO BoA in terms of late-filed facts and requests. It also presents a study concerning the Petitions to Review deemed admissible / allowable by the Enlarged Board of Appeal, analysing common features of such successful Petitions.	<p>i) Case-law of the EPO BoA in terms of allowability of late-filed requests and facts.</p> <p>ii) How exhaustive is the case analysis by the BoA and how is the right of the parties to be heard dealt with, particularly in view of <i>reformatio in peius</i> issues.</p> <p>iii) The extent to which the “Petition to Review” before the EBoA represents a viable third-grade of case (re)consideration.</p>	
NRG Italy	Protection of the Shop	Panel	This important topic concerns the protection of look and feel of shop fit out and the like. This involves a discussion about	i) Definition of get-up;	

	Layout and its design	Session (IP General)	the protection of the presentation of the insides of restaurants and shops interiors in general. The topic concerns different branches of IP (designs, distinctive signs, copyright), as well as unfair competition issues.	<ul style="list-style-type: none"> <li>ii) freedom of the designer test;</li> <li>iii) appearance and function</li> <li>iv) protection of the shop layout through the rules of design, distinctive signs, copyright and unfair competition.</li> </ul>	
NRG Italy	Fast Arbitration during exhibitions and trade fairs	Panel Session (IP General)	<p>The topic proposed deals with the need to offer qualified, quick and cost effective enforcement during the very short timing of the trade fairs and exhibitions.</p> <p>In several jurisdictions, the trade fairs are considered by the local law as a sort of “safe harbor” were no civil seizure or injunction cannot be executed.</p> <p>Only the criminal enforcement can be executed but with a big risk of wrongful actions and abuses (see the report made by IPR2 program in 2009 and the recent comments about the German Trade fairs (<a href="http://www.lexology.com/library/detail.aspx?g=52e5260d-fde4-41f8-9ff5-9769e3237a7d">http://www.lexology.com/library/detail.aspx?g=52e5260d-fde4-41f8-9ff5-9769e3237a7d</a>)).</p> <p>Due to the very clear position adopted by the ECJ in the case C- 494/15 (Tommy Hilfiger case), any owner or organizer for a trade fair/exhibition should be considered as “intermediary” under the meaning of the enforcement directive.</p> <p>Italy has a special experience since 2002 about a specific “in</p>	<ul style="list-style-type: none"> <li>i) appreciation about the IP right validity and enforceability;</li> <li>ii) unfair competition and unregistered rights issues;</li> <li>iii) right of defence: ex officio lawyers;</li> <li>iv) evidence collection ways;</li> <li>v) mediation attempt;</li> <li>vi) balance of interests and possible securities;</li> <li>vii) enforceability of the decision and the exhibition general</li> </ul>	

			<p>house” regulation in force in several trade fairs.</p> <p>The Global Association of the Exhibition Industry (UFI <a href="http://www.ufi.org">www.ufi.org</a>) already in the 2008 recommended that: <i>“Organizers should be able to provide a neutral arbitration, arbitrator, or judge to help determine if there is a violation or to resolve IPR disputes during the trade fair, and should provide interpreters to facilitate communication in the case of disputes with foreign exhibitors.</i></p> <p><i>When appropriate and if possible, organizers should provide an on-site office, a special stand or a point of contact, to deal with any IPR requests or complaints for the entire duration of the trade fair”</i></p> <p>In China since 2006 a specific law is requiring the need to adopt special enforcement measures. The Canton fair is offering a Complaint Center managed by the local administrative enforcement authority, having an essential role as mediating entity. Nevertheless, there still the need to have the option of a decision in case the mediation will fail.</p> <p>Being the Trade Fairs /Exhibitions more and more crucial in the business distribution strategies, the need of secure the IP rights during these events is becoming really essential.</p> <p>Therefore, an international comparison among the different options available and the major jurisdictions (EU, USA, China) will be really significant.</p>	contract’s duties.	
NRG Italy	The different means of challenging misleading advertising: judicial, administrative, ADR. The	Panel Session (IP General)	EC directive 2005/29 underlines the role of advertising self-regulation bodies in controlling unfair commercial practices. Besides, EU directive 2013/11 considers ADR procedures as a mean to achieve a high level of consumer protection. It		

	role of advertising self-regulation bodies as means of ADR and of consumer's protection		seems to be time to consider, from a worldwide perspective, the role of advertising self-regulation bodies as ADR entities in order to challenge misleading advertising, both in consumer's interest and in competitors' interest.		
NRG Italy	Ambush marketing	Panel Session (IP General)	The relevance of the issue of ambush marketing is increasing as ambush marketing can devalue the exclusive sponsorship rights that are sold to official sponsors, dilute the exposure of official sponsors, and in some cases, infringe upon the organizers' intellectual property. On the other hand a balance shall be strived with competitors' right to carry out lawful marketing activities	The boundaries between a lawful marketing technique and the infringement of sponsored properties	
NRG Italy	Africa and intellectual property: what is changing	Panel Session (IP General)	A first presentation on "the protection of IP rights in Africa through the ARIPO system" was given in Helsinki in 2013. The issue of trends and developments of IP protection in Africa could be now further studied and discussed during a dedicated Panel Session. The interest of this Session would mainly derive from the growing importance of African markets in the IP field and the fact that many attendees would not be familiar with IP protection in Africa and could find very attractive to get information on that.	<ul style="list-style-type: none"> <li>i) Overview of protection of IP rights in Africa;</li> <li>ii) Trends and developments in the protection of IP rights in the African countries;</li> <li>iii) Administrative and judicial enforcement of IP rights in Africa.</li> </ul>	
NRG Italy	Trade Mark law and customs problems	Study Question	A currently debated topic is that of how trade mark infringing goods are checked and blocked by customs authorities. This involves a discussion on the measures that customs authorities can adopt and the procedures to follow. Other interesting issues concern the way to coordinate trade	<ul style="list-style-type: none"> <li>i) Customs measures and customs procedures against trade mark infringement; ii)</li> </ul>	

			<p>mark law and customs law in fighting infringement; the need to take into account all interests involved and guarantee proper rights of defense; the administrative or judicial review of customs measures. It would be positive to study all these issues within a question and to have an AIPPI resolution on them.</p>	<p>Relationships between trade mark law and customs law; iii) Finding the right balance between efficiency of customs measures and rights of defense of any interested parties; iv) Administrative or judicial review of decisions taken by customs authorities.</p>	
NRG Italy	<p>Exceptions to copyright (fair use) and three-step test</p>	<p>Study Question</p>	<p>The three-step test has been included in international treaties on copyright since Berne Convention (1967). This test needs to be applied to an increased number of situations where the issue of fair use of copyrighted work arises. This topic may be of relevance in Europe due to the preparatory works of new EU legislation on copyright</p>	<p>Issues to be explored: (a) implementation of three-step test principle in various jurisdiction; (b) examples of application of the three-step test in determining fair use in IT society in various jurisdictions; (b) three-step test and EU copyright reform</p>	
NRG Italy	<p>Technical Experts and Patent Litigations</p>	<p>Study Question / Panel Session (Patents)</p>	<p>The complexity of the technical issues involved in patent litigations has rapidly grown in the last years, also due to the spreading over different industrial fields, such as life sciences and ICTs, nanotechnologies and computer science or others.</p>	<p>The role of the technical experts in patent litigations is ruled by different provisions throughout</p>	

			<p>In some cases, for reaching complete and well grounded decisions, it seems advisable that the Courts and the parties discuss such technical issues availing themselves of technical experts.</p>	<p>the various countries.</p> <p>This role should be a topic of the discussion, in order to give an outlook about the situation in the main patent systems (i.e. Europe, US, Japan, China).</p> <p>At present, the intervention of technical experts is mainly limited to the giving of evidence or testimony to the Courts, on specific matters.</p> <p>However, when patent validity and/or infringement must be assessed, it might be useful if the role of the Court and parties experts were more proactive.</p> <p>In these cases they could operate in a manner somewhat similar to forensic</p>	
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				<p>experts.</p> <p>The legal provisions which can balance the positions of the parties before the Court, should be followed.</p> <p>The Italian system could be an example of best practice.</p>	
NRG Italy	Provisional protection of patent applications	Study Question	<p>This Question would study how the owners of patent applications are protected in various jurisdictions before the grant of the patent. The Question would in particular focus on the possibility to obtain interim measures on the basis of a patent application and which measures could be issued. The topic of the liability of the owner of a patent application seeking and obtaining provisional protection in case the application is then rejected by the competent Office could also be explored.</p>	<p>i) Desirability of a provisional protection of patent applications;</p> <p>ii) Rights conferred to the owner by a patent application;</p> <p>iii) Possibility to obtain interim measures on the basis of a patent application and which measures;</p> <p>iv) Possible liability of the owner of the patent application.</p>	
NRG Italy	Copyright – general issues: the meaning of the “original” indication according to the general non-discrimination	Study Question	<p>The Question would study the meaning of the of the term “original” in coherence with the wording used of the Berne Convention and in relation to all the various national law implementation or by Jurisprudential and Doctrine interpretation (by the “originality” expression or similar).</p>	<p>i) admissibility of any “value” appreciation in the copyright field;</p> <p>ii) meaning of the</p>	

	principle of the Berne Convention.		The aim is to find a way to reconcile any local interpretation in a consistent way with the non discrimination principle underpinning the Berne Convention.	“original/ity” expression associated to the copyright protection.	
NRG Italy	Copyright – design issues: the meaning of the expression “artistic works” in the art. 2.7 of the Berne Convention and the coordination with the meaning of the of the art. 17 of the Design Directive 98/71 and in particular of the of the expression “level of originality”.	Study Question	The Question would study the meaning of the wording in the art. 2.7 of the Berne Convention in relation to “works of applied art and industrial designs and models”, and, in particular, the expression “artistic works”. The analysis firstly, will be directed to compare to all the relevant national implementations to such article. Secondly, the question will verify the consistency of the expression “level of originality” of the art. 17 of the EU Directive 98/71 with the general principles of the Berne Convention and, in particular, with the art. 2.7.	<ul style="list-style-type: none"> <li>i) meaning of the “art/istic” wording applied to any copyright’s subject matter;</li> <li>ii) distinction (if any) between artistic works and design and models;</li> <li>iii) conflict between EU Design Directive and Berne Convention: consequences.</li> </ul>	