

AGENCY, DISTRIBUTION & LICENCING

Ione Ferranti, Founder of Ferranti Law Firm (Studio legale Ferranti)



About Ione Ferranti

Ione began practising as an Italian lawyer in 1998 (she worked as a paralegal for a large Italian law firm from 1996 to 1998), and is the founder of Ferranti Law Firm (Studio legale Ferranti), established in 2004.

"The structure of the Firm is small, very flexible and Spartan, reducing costs without sacrificing quality or professionalism. We provide our Clients different types of legal services (from bespoke services to 'routinely' services) and different types of billing, according to circumstances and legal needs." – Ione Ferranti

Contact Details:

Ione Ferranti
Studio Legale Ferranti
Via Cola di Rienzo n. 149 –
00192 Rome (Italy)

Tel. (+39) 0664011772
www.studiolegaleferranti.com

P.E.C.:
ioneferranti@ordineavvocatiroma.org

Email:
ioneferranti@studiolegaleferranti.com



Whenever an SME, or small charity is looking to expand its business, it will be looking towards this subject matter, and aiming to distribute or supply on a larger and riskier scale, will be turning to the counsel of a proficient lawyer.

In this case, Ione Ferranti is a formidable thought leader in this legal segment, and having practised in the field since 1998, is the go-to help for agency, distribution and licensing agreements. Here Ione talks to *Lawyer Monthly* about the clients her firm deals with throughout Europe, the processes that take place with these, and briefly about the evolution of legal services in contract negotiation over the years.

What is the type of client you most commonly deal with in distribution and licensing contracts?

In distribution and licensing matters Ferranti Law Firm most commonly deals with business owners and entrepreneurs (from start-up to multi-national companies; from manufacturers to importers, distributors, and service providers) who have an interest in expanding their operations nationally or globally. As a result, we are experienced in advising both suppliers and distributors/licensees, in a range of different product sectors, both domestic and international. We focus not only on contracts but also on litigation in this area of practice.

How would you say your clients differ between European member states?

Licensing and distribution law is composite, including international treaties, European Union and member states' rules on intellectual property, European Union competition laws as well as licensing and distribution national rules.

In fact, in 2010, the European Union Commission made a new Regulation exempting from Article 101(1) of the Treaty of the Functioning of the European Union various categories of agreements between businesses operating at different level of the production or distribution chain.

However, in Italy we do not have a specific national legislation on distribution agreement; consequently, we have case law and specific legislation on other connected commercial contracts. Nevertheless, member states have varying licensing requirements. In addition, submission of timely renewals and knowing what events trigger notification requirements and when those notifications are due is essential to avoiding penalties.

What particular process usually takes place with these clients?

In distribution and licensing agreements a variety of legal issues arises, depending on the type of contract and the product sector. Each distribution and licensing situation will differ.

Thus, a distribution agreement is typically a contract between a manufacturer, producer or importer and an independent contractor who sells or distributes the products. Usually, the distribution of products and services requires a range of different commercial contracts.

Licenses typically refer to a grant of rights for one person or company to use intellectual property such as a trademark, image, name, patent, know-how, et cetera. Licences can take a variety of forms and must address issues involving the term of the relationship, the scope and limitations of the licence granted, the term of the license and events of renewal, ownership of trademarks and intellectual property, et cetera.

In other words, in this practice area clients need to exploit (rectius: to develop or make use of it) and to protect their intellectual property rights, including litigation in case. So, we analyse closely intellectual property – especially trademarks – as well as data protection and privacy.

Moreover, there are a variety of issues should be covered by a contract between the business partners, including by way of example: the territorial or the scope of the agreement; exclusivity or non-exclusivity, taking European Union competition law into consideration; non-compete obligations, taking European Union competition law into consideration; minimum performance obligations; reporting obligations; marketing rights; the applicable terms and conditions of sale; the circumstances in which the agreement may be terminated and the consequences of termination.

How has legal work in contract negotiation evolved throughout the EU since you entered the profession? What have been the major game changers in this field over the last decade?

Legal work in contract negotiation has evolved throughout the EU in different directions since I entered the profession in 1998.

Indeed, the enlargement of the European Union makes the use of agency, distribution and licensing contracts to trade across national boundaries increasingly important. Moreover, in past times in Italy we did not have a national competition legislation. Therefore, in competition law field the Italian legislation is evolving almost in parallel with the European Union legislation. Consider that the Italian Authority Antitrust was established only in 1990.

In my opinion, the major game changers in this field have been internet and e-commerce over the last decade.

In short, in the licensing and distribution field we hope for more harmonization and simplification of regulations and procedures across the European Union member states. **LM**