THE LAWYER'S DAILY

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Business

How green value chain affects trends, fashion, vegetation, legal framework

By **Emanuela Truffo**

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(December 1, 2020, 12:23 PM EST) -- Green is a fashion colour. Do you want to sell a product? Make it green. Are you supplying a service? Make it green. From global warming and ocean water levels to the thinning ozone layer, a new consciousness in younger generations makes "green" and "sustainability" two must haves in the marketing and communications department of any company in all areas of business.

However, there are authentic green value chain (GVC) industries that are *per se* green, though they're not always 100 per cent sustainable: floriculture and agriculture.

It is for these industries' awareness of the importance of plant breeder rights (PBR) that a webinar will be held Dec. 10, 2020, sponsored by three organizations historically focused on the new varieties around the world; the International Community of Breeders of Asexually Reproduced Horticultural Plants (CIOPORA), the International Association of Horticultural Producers (AIPH) and its publication, *Floraculture International*.

If we want to understand the GVC we cannot ignore the (admittedly rough) definition of an ecosystem as a bubble of life including various biotic factors inevitably working parallel to one another. The GVC is also circular: all stakeholders, from the breeder to the consumer, including nurseries, marketers and distribution networks are linked and the decision made by one is bound to affect the others.

Although the economic world seems to be constantly raising its awareness of the unavoidable interconnections, the legal environment in which the players of the GVC build their business model largely depends on local legislation.

In fact, despite all the international conventions and treaties regulating the filing and granting process of a PBR and any other intellectual property right related to the GVC, the main business development tool — the contract — is largely governed by domestic legislation, as the COVID-19 pandemic taught us. (It's one of the many lessons the pandemic has taught us.)

But for companies accustomed to dealing with biodiversity law — diversity is seen as a challenge that opens new gates rather than a threat.

In a nutshell

What: The first step for a GVC business is building the proper intangible asset portfolio. The GVC is high tech and patent driven but it shares with the traditional economy tools and processes such as supply and demand. Hence, assets as trademarks, company names and designs are essential elements for any green business' success.

Where: Once the intangible assets portfolio is defined, the territorial scope of the business development is defined. And along with the territorial scope comes the legal framework: specifically, the contract law to be applied.

When: The timeframe is determined in relation to the duration of the main assets — PBRs. No PBRs, no contract.

Who: Breeders, nurseries, marketers and retailers, from street markets to department stores, including neighbourhood stores and supermarkets. Standard contracts can be adapted to any jurisdiction thanks to minor amendments in key clauses (e.g. termination, governing law, jurisdiction, *force majeure* and hardship, etc.).

Why: History teaches us that when the stakeholders of the GVC stop collaborating, the whole GVC is seriously damaged.

The Dec. 10 webinar is only one piece of the puzzle. Every day, institutions such as CIOPORA, AIPH and FCI join forces with professionals working in GVC industries and work to raise awareness and keep the GVC in the spotlight, where it belongs.

Because green matters. But no fake green, please.

Emanuela Truffo is a partner at Studio Legale Jacobacci e Associati *in Milan, Italy. She specializes in contentious and non-contentious intellectual property matters and commercial litigation across a wide range of local and international practices. She has developed expertise in negotiation and drafting of agreements such as licence, non-disclosure, non-compete and coexistence agreements concerning IP rights and copyright as well as for commercial transactions.*

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