The Katten Kattwalk®

Fall 2025 | Issue 30

WTiN Sits Down With Karen Artz Ash

Maximizing Success in Trademark Mediation

The EU Data Act is Here

Consultation on UK Design Law

UK Crackdown on Cyberflashing

The Right Party for Offensive Trademark Litigation

New Certification System for Made in Italy Brands

Letter From the Editor

This month, we had the pleasure of sponsoring and attending this year's WWD Apparel & Retail CEO Summit to celebrate 115 years of WWD, and we are now excited to release the Fall 2025 edition of *The Katten Kattwalk*, our 30th issue. In these pages, you'll find an interview with me, Intellectual Property (IP) Partner and National Co-Chair of our Trademark/Copyright/Privacy Group Karen Artz Ash. I sat down with World Textile Information Network to discuss the recent impact of President Donald Trump's tariffs on the US fashion industry at large and my observations in law. Then, IP Litigation Partner and Co-Chair of our Trademark/Copyright/Privacy Group Floyd Mandell delves into tips for maximizing success and avoiding common pitfalls in trademark mediation. Floyd, who has been a participant and mediator in hundreds of cases over several decades, illustrates key mistakes and offers helpful suggestions to help parties avoid failing a mediation. Up next is an article by Privacy, Data and Cybersecurity Counsel and Privacy Officer Trisha Sircar and IP Associate Anita Hodea, outlining the implications and key points of the EU Data Act, which took effect on September 12. The regulation has wide-ranging applicability across industries, including fashion, where connected wearables, smart textiles and data-driven retail experiences are becoming increasingly integrated into both product innovation and customer engagement.

In our UK spotlight, London Deputy Managing Partner Terry Green and IP Associate Larry Wong provide an update on the UK Online Safety Act and its recent categorization of cyberflashing as a "priority offence." Then, IP Partner Nathan Smith and Anita Hodea discuss an ongoing major consultation on modernizing the United Kingdom's design protection system, with proposed reforms affecting the £100 billion design sector that supports around 80,000 businesses and nearly two million jobs, including those in fashion.

Then, IP Associate Matthew Hartzler writes about picking the proper party for offensive trademark litigation, which can be tricky for brands with corporate parent complexity, entities spread across different jurisdictions, or those that have spawned from an individual designer. Finally, Outside Counsel Cynthia Martens discusses a new package of fashion-related measures approved by the Italian Senate that aims to protect the "Made in Italy" value chain, with amendments that create a new certification system to increase traceability and tout compliance with labor laws.

We hope you enjoy reading our 30th anniversary issue. Thank you to our readers, and please don't hesitate to reach out with your fashion law questions.

Karen Artz Ash

In This Issue

World Textile Information Network Sits Down With Karen Artz Ash

Following President Donald Trump's global tariff wars, World Textile Information Network (WTiN) sat down with Intellectual Property Partner Karen Artz Ash, National Co-Chair of Katten's Trademark/Copyright/Privacy Group. Karen, who has practiced in the trademarks, fashion and beauty industries now for over 30 years, discussed the recent impact of Trump's tariffs on the US fashion industry at large and her observations in law.

***WTiN*: Since President Donald Trump's reciprocal tariff wars and the elimination of the duty-free de minimis exemption, what concerns are you seeing from US fashion brands, manufacturers and supply chain bodies?**

Karen: Without a doubt, there is greater caution in committing to large orders or to placing orders with a single manufacturer that has factories in only one region. While, typically, there are economies of scale in volume and using factories where their production runs can save money by being large, there is a natural reluctance to commit to anything in large quantities and without backup.

Overall, companies are trying to provide themselves with as much cushion as possible by diversifying their reliance on different factories in different locations.

Planning with retailers is also more difficult. Both retailers and brand owners want to minimize the need for passing along substantial price increases to consumers. The potential for reciprocal tariffs that impose higher costs on selling products in other countries also has a significant planning impact on how and where companies devote their budgets, retail resources and advertising as well.

***WTiN*: Some argue that this increase in protectionism — the practice of shielding a country's domestic industries from foreign competition by taxing imports heavily — will cut back at lengthy supply chains and reduce fast fashion reaching US soil, thus improving sustainability. In what ways is this protectionism benefiting and/or harming the US fashion industry?**

Karen: While the goal is laudable, namely in that it supports local jobs and resources, this is not an overnight process. It takes years to locate, build and set up a domestic manufacturing facility that can support a substantial business. It takes just as long to hire and train workers, and the cost of those workers will be high because of the high cost of living anywhere in the US.

Over the years, the US pivoted from being a manufacturing country to a more service-oriented economy. This has fueled the growth of certain types of work, requiring different education, skills and infrastructure. The pivot back to a manufacturing-driven economy cannot happen overnight, even if it is ultimately possible.

***WTiN*: These supposed sustainable benefits to the tariffs appear to be, overarchingly, an incidental knock-on-effect. Nevertheless, how might this reveal the potential future behaviors of global fashion industries?**

Karen: This is really unpredictable. No one has a crystal ball. I think the one thing that will continue for years to come is overall caution and diversification of resources, so that no single occurrence can freeze a company's ability to make and market products.

***WTiN*: How has the US fashion industry supply chain been directly affected since the tariff wars?**

Karen: It has been affected by levels of unpredictability, changing costs and price-oriented production, which typically involves products that have lower margins, rely on immediate and inexpensive production and delivery, and can be affected quickly.

***WTiN*: Have you noticed a spike in specific sectors within fashion and textiles seeking legal counsel?**

Karen: These same issues have always been there. They are just amplified now.

***WTiN*: Did the elimination of the duty-free de minimis exemption lead to an increase in US fashion success or the opposite?**

Karen: It is far too early to tell what the industry effects are.

***WTiN*: How do you foresee US fashion industry entities remaining resilient in this time of geopolitical uncertainty?**

Karen: There is one thing that I know for sure, and it is that the fashion industry is amazingly resilient.

It has survived and even thrived through problems of every type, including world uncertainty, economic turmoil, terrorism, war, regime changes, strikes and a global pandemic.

In the end, industry leaders and other participants learn and change, adapting so they succeed.

This article was first published in World Textile Information Network (WTiN) on August 14, 2025. You may access the original article here.

Maximizing Success and Avoiding Common Pitfalls in Trademark Mediation

By Floyd A. Mandell

Mediation can be an effective means of minimizing any uncertainty, expense, delay, drain on corporate resources, risk of adverse publicity and damage exposure associated with trademark litigation.

However, mediation can also result in wasted time, money and effort if the parties are not adequately prepared, the right mediator is not selected for the dispute and key factors are not carefully considered in advance of mediation. This article will address how to maximize the chances of a successful mediation that will result in a dispute's business resolution. It focuses on ways to avoid certain common pitfalls and frustrations that may cause a failed mediation, and it also intends to illustrate key mistakes and offer helpful suggestions to help parties avoid a failed mediation.[1]

The author has been a participant and mediator in hundreds of cases over several decades. Just as trial preparation involves hard work and careful consideration of issues, mediation requires hard work, effort and commitment in order to achieve a successful result. The wrong mediator, the wrong timing and the wrong people attending can all doom a mediation from the outset.

Factors to consider in evaluating whether a dispute is suited for mediation

The parties and their counsel should identify the key business goals and objectives (both immediate and long-term) they seek to achieve and determine whether mediation, another form of alternative dispute resolution, litigation or a combination of these tools would be most effective in reaching them.

Key factors to consider include the advantages of mediation over litigation in resolving disputes, such as:

- Inherent cost savings
- Process and outcome are controlled by the parties
- Allows parties to "vent" in ways not possible in the litigation process[2]
- Relatively fast-moving compared to litigation
- Parties may select an industry or trademark authority as the mediator, or a retired judge with some know-how in the substantive area[3]
- A good mediator may provide a "reality check" in assisting the parties to more realistically evaluate their settlement positions and goals

- Mediation may reduce hostility and preserve or commence a relationship between the parties
- Parties may maintain confidentiality
- Mediation minimizes the risk of creating "bad law" since there is no reported decision

Key factors also include possible disadvantages of mediation over litigation in resolving disputes, such as:

- Lacks the procedural and constitutional protections of litigation
- Challenging party may be frustrated by the fact that mediation is not a "truth" or "fault" inquiry and that there is no finding of "right" or "wrong"
- Success of the mediation depends upon the parties' willingness to come to the bargaining table in good faith; those who do not can be viewed as using the process to serve unjustified means in the litigation, such as to delay the litigation process or to obtain a "free" look at the other party's case strategy and evidence, etc. This can create enhanced distrust and needlessly escalate litigation costs.

There are also factors that increase the likelihood that a controversy can be resolved through mediation, including:

- Resolution of the dispute is a top priority for both parties.
- The parties have an important business relationship that they both wish to continue, such as a manufacturer and a distributor or a licensor and a licensee.
- Key decision makers for the parties are familiar with and committed to mediation.
- Key decision makers are familiar with the dispute itself and the goals of their business, and come with knowledge of risks/costs of litigation.
- At least one party has successfully used mediation to resolve disputes in the past.
- Each party has engaged in business practices that are or will be the subject of claims by the other party if the dispute is litigated.
- Each party wishes to avoid adverse publicity, negative or unwanted publicity in the industry, government scrutiny or the risk of follow-on consumer litigation with respect to its business practices.

Maximizing Success and Avoiding Common Pitfalls in Trademark Mediation *(continued)*

- Facts or law suggest that the outcome of litigation is uncertain.[4]
- The disputed trademark is not a key element of the challenged party's advertising campaign or long-term business strategy.
- The challenged party's investment in the disputed trademark is not significant.
- There is no pattern or practice of counterfeiting, trademark infringement, etc. (i.e., use of disputed trademark is not simply the latest in a series of improper business practices).
- Key decision makers for the challenged party are not personally invested in continuing to use the disputed trademark.[5]
- The challenging party has a genuine interest in resolving the matter quickly through the other party's discontinued use of the disputed trademark. At this point, the recovery of damages is not a "deal point"; regardless, the mediators should always save any monetary issues for last.

Factors that may decrease the likelihood that a controversy can be resolved through mediation include:

- The wrong mediator is involved; what defines a "wrong" mediator will be discussed below.
- Counsel for one or both parties is not committed to the process and/or does not want the dispute to settle, or is currently disinterested in settlement.
- The parties are not prepared to discuss settlement objectively.
- One of the disputing parties is committed to litigation based on factors such as an emotional investment in their position, a strong interest in trying the case, the need to send a message to other potential infringers, appearing "tough" to the opposing party as a message, etc.
- There is a "history" between the parties.
- At least one key decision maker for one of the parties is incapable of working productively with the opposing party to seek a resolution.

- The disputed trademark at issue is central to the challenged party's business plan and/or marketing strategy.
- The challenged party's insurance carrier is covering its fees, costs and/or part or all of any damages award.[6]
- One of the parties would be seriously damaged if it were to lose the dispute.
- The timing of the mediation is wrong.

Certain characteristics of the mediation process may also aid dispute resolution. See below:

- If parties perceive the mediator as neutral and as having no stake in any particular outcome, this may allow them to make suggestions and solicit ideas more effectively.
- If the mediator approaches the case with a fresh perspective, this will allow them to evaluate the merits of the case more accurately than the participants.
- If the mediator is not limited by judicial procedures, this may allow them to overcome the obstacles that are preventing the parties from resolving their dispute.
- The mediator can hold "ex parte" conferences with the parties, allowing them to speak directly with the principals.
- The mediator is respected by all parties for their knowledge, experience in litigation, prowess in the area of the law and neutrality, enabling them to speak frankly without alienation.

Choosing the proper mediator

Once the parties decide to engage in the mediation process, it is the responsibility of counsel to do everything possible to facilitate a successful outcome. Among other things, recommending and selecting an effective mediator is essential to a meaningful mediation, as the choice of mediator can either maximize the chances for success or doom the mediation process to failure.

Often the first decision that must be made when selecting a mediator is whether the mediation should proceed before a judge assigned to the case (or a magistrate judge to whom the judge can refer the case) or to a private mediator who is not involved in or associated with the pending litigation. While there are advantages to using a judicial officer, the disadvantages may justify the costs associated with retaining a qualified private mediator.

There are many advantages of choosing a judicial officer. Perhaps the most compelling is the fact that a judge or magistrate judge may have more leverage and ability than a private mediator to "twist the arms" of counsel and their clients (the "black robe effect"). Lawyers who regularly appear before a court generally wish to avoid gaining a reputation as being unreasonable and difficult, and, at the same time, a judicial officer often commands the respect of even difficult parties who may otherwise be resistant to the reasonable suggestions of a mediator. There may also be a cost advantage in using the courts (in contrast to using a private mediator who charges a fee), as the parties do not have to pay for the time spent by the judge or magistrate judge. In addition, to the extent it is appropriate, a judge may be in a position to more easily facilitate a "stay" of the litigation and allow the parties to proceed with mediation without having to participate in ongoing discovery or motion practice.[7] By staying the litigation, the court may enable the parties to avoid the polarizing effect of pre-trial discovery and motions, as well as the additional legal expenses that the parties would otherwise incur in connection with such activities.

At the same time, however, there may be several disadvantages associated with the decision to mediate before a judge or magistrate judge. Perhaps one of the greatest drawbacks to mediating before the court — and the trial judge, in particular — is that counsel and their clients may be less likely to move off of their positions to reach a middle ground, even if the case will ultimately be tried to a jury[8]. While meaningful mediation often requires that the parties disclose the weaknesses in their positions and/or confidential information at an early stage, the parties may not be willing to participate with the requisite degree of candor if they perceive that a judge may be forming impressions of the parties or the case before a full hearing on the merits. Additionally, a judge or magistrate judge often will not be able to commit as much time or energy to mediation

Maximizing Success and Avoiding Common Pitfalls in Trademark Mediation *(continued)*

as a private mediator. Another disadvantage to choosing mediation before the court is that a judge or magistrate judge may not have the substantive trademark know-how necessary to effectively communicate with the parties or identify the key issues in dispute. A true trademark professional may be better equipped to undertake a creative, "out of the box" resolution involving licensing, co-existence, etc.

In sum, whether to utilize the court in connection with mediation is often dependent upon the facts of the particular case, the experience and qualifications of the particular judge or magistrate judge, and other factors specific to the parties and the dispute at hand. In many cases, an attempt can be made to start with a judge in a settlement conference and, if that fails, to hire a private mediator later.

Qualifications of the mediator in a trademark dispute

One of the key considerations in selecting a mediator related to trademark litigation is whether they are sufficiently familiar with substantive trademark law to evaluate the issues in the dispute from the perspective of each party and propose creative solutions. For example, creative resolutions to trademark disputes may involve structured licensing arrangements or "consent agreements" that define what the parties agree to be a "fair use." Furthermore, a command of trademark law is an important qualification if the mediator is to command the respect of the attorneys and parties.

The mediator's know-how in mediating a case and/or participation in numerous mediations is also a very important ingredient. A professional mediator with experience overcoming problems involving egos, resistant lawyers and parties who are not focusing on proper goals is an extreme "plus" and a potentially important ingredient for success. In contrast, a mediator who is satisfied with merely being a messenger to convey settlement proposals back and forth between separate conference rooms does no one any good and, in fact, hinders the settlement process by keeping the parties at a distance with no creative solutions.

Most experienced litigators limit their choice of a mediator to someone that either they or someone they trust recommends. The best mediators are often the busiest, and it may be ideal to wait to enlist the services of the very best. Additionally, if an opposing party suggests a mediator, this may benefit the other party, as it is someone the opposition trusts. Attorneys who immediately reject the suggestion of an opposing counsel are making a mistake if they do not consider the suggestion in good faith.

In sum, the optimal qualifications for a mediator are knowledge of trademark law, know-how in the mediation process, and creativity and proactivity in designing and understanding solutions that address the legitimate business concerns of each party. Other desired personality traits include being hardworking, energetic, an effective communicator, and having the personality to command respect and credibility, while being capable of "twisting arms" where necessary.

Finding the proper private mediator

Before a mediator is selected, as mentioned, it is recommended to ask for references and speak to attorneys or parties who have worked with the mediator in the past to ascertain whether the mediator fulfilled their expectations. Some US District Courts (for example, the US District Court for the Northern District of Illinois in Chicago) have a selected list of mediators who, based on their experience and knowledge in the area of trademark law, have satisfied local rules designed to govern who should mediate trademark or Lanham Act cases in that district. In addition, there are other professional organizations offering alternative dispute resolution services (e.g., JAMS/Endispute) that employ professional mediators with varied backgrounds. Many are retired judges, while some are law professors, and some are both.

Furthermore, in an effort to specifically address the needs of parties involved in trademark litigation, the International Trademark Association (INTA) created the Panel of Neutrals (also known as the Trademark Mediators Network) as an alternative dispute resolution resource for members of the general public

involved in trademark disputes, as well as INTA members. Today, the INTA Panel of Neutrals (Panel) is comprised of experienced trademark professionals who are members of INTA and have met established requirements to become a member of the Panel (see INTA's Directory of Trademark Mediators).

Pre-mediation submissions

The best pre-mediation submissions the author has seen in litigated trademark disputes often include the following:

- A brief outline of the legal causes of action and their elements
- A brief outline of the most significant facts (and evidence) supporting liability and damages
- A clear outline of how damages (that it realistically seeks) are calculated and are likely to be proven at trial
- Copies of key contracts, correspondence, registration certificates, insurance policies and other key documents, with relevant portions highlighted for the mediator's review
- Photocopies of trademarks/trade dress in use, advertising and products at issue
- Copies of statutory provisions or leading cases in the jurisdiction addressing the major legal issues most likely to be disputed
- A chronology of key events
- A list of key players (people and companies) and the titles/roles of those participating in the mediation
- A summary of past settlement history (so the mediator knows what numbers or options have been bandied about, even if those numbers or options are no longer on the table)

Other things that may be helpful in submissions:

- Preliminary (or final) reports by industry or trademark authorities
- Excerpts of deposition transcripts with significant statements highlighted for the mediator's review
- A confidential summary of each side's views of the barriers to settlement in the instant case and some possible ways for the mediator to handle those barriers (e.g., are there personality conflicts, special client issues, etc.)
- A confidential statement distinguishing a party's strong arguments from its weaker ones
- A confidential summary of other interests or objectives that might lead to creative solutions to the dispute
- Any other private requests about how the mediation should — or should not — be conducted

Some mediators strongly encourage the parties to exchange their pre-mediation submissions with each other. The more information exchanged in advance, the more the mediator can use to try to persuade one party or the other. Nevertheless, there are times when an advocate may not want to reveal certain theories or information too early in the mediation process. In those instances, advocates can draft a "confidential supplement" to the mediation brief for the mediator's eyes only.

There are cases where an exchange of submissions can anger or inflame one or both parties. Good mediators make that judgment call by talking individually and/or collectively with counsel for the parties in advance.

Some mediators like to read pre-mediation briefs that resemble formal litigation briefs. Most, however, care only that the "brief" be "brief," and that it is concise, well-organized and easy to read. The more prepared the mediator is prior to the first joint session, the more useful they will be to both sides. Make it easy for the mediator to be prepared. The best submissions give the mediator far more ammunition to work with — usually on behalf of the party making that submission.

Suggested protocol at the mediation

Do the parties have opening statements? Have a joint meeting? Do the parties or their counsel talk directly to the opposing parties? While nothing is "written in stone" for every case, the author's answers to these three questions are generally: No, no and no.

Usually, the author may have a brief meeting where only he does the talking. He will set the rules he uses, confirm he has read everything, compliment counsel for submissions and allow introductions (not arguments of the case). He will then begin the process of caucusing.

Opening statements by parties or their counsel can cause polarization. The author, therefore, does not recommend it. Venting to the mediator is fine and is sometimes therapeutic for the party. However, venting between the attorneys and parties is not helpful.

Video mediation versus in-person mediation

The author has been involved in many mediations that are conducted via video conference (e.g., Zoom, Microsoft Teams or Cisco Systems). Some distinguished mediators only handle video mediations.

In the author's experience, if the stakes of the litigation are high, in-person mediation is the best choice and is more often successful. It can increase the expense of out-of-town parties, but it has advantages. Many mediators will travel to a location that is most convenient to the parties. Although this adds to the mediator's expense, it may save time and expense for the parties.

There is an advantage to eye-to-eye personal contact, arm-twisting and wearing a party down, and in-person attendance shows a personal commitment to taking the process most seriously. Having the parties with authority present helps to facilitate a signed term sheet. Many "deals" fall apart if an agreement is not reduced to writing. The best mediators stay and work with both parties for as long as progress is being made.

Consideration of local rules and ethical guidelines

In preparing for mediation, it is important to have a solid understanding of the local court rules governing mediation, including ethical guidelines and rules adopted by the court related to settlement and alternative dispute resolution (ADR).

Local rules governing mediation

Certain jurisdictions have implemented mediation programs specifically related to trademark disputes, encouraging litigants to utilize these programs and try mediation either before or after engaging in discovery. For example, the US District Court for the Northern District of Illinois has had in place for several years a Voluntary Mediation Program for cases arising under the Lanham Act. Similarly, in the US District Court for the Northern District of California, there is a robust ADR program with specific rules on the use of mediation and other ADR procedures in connection with trademark disputes.

Timing considerations in the mediation process

Experienced attorneys know that it can be incredibly frustrating for their clients to spend substantial time and money attempting to mediate a case, only to reach an impasse. This frustration will be compounded if mediation ultimately prolongs the litigation. Accordingly, when evaluating a client's settlement goals, it is important to consider, among other things, the amount of time to devote to the mediation process as well as the timing of the mediation itself.

Often, mediation or a settlement conference can be held early in the case of certain limited information being exchanged on a "for mediation purposes — confidential" only basis. However, do not risk producing information or documents that would otherwise be privileged. See e.g. *Pac Bell v. GTE* (135 F.R.D. 187 (ND Cal. 1991); 19 U.S.P.Q.2d (BNA) 1612.

If an early mediation or settlement conference fails, a further opportunity to mediate will often present itself again — sometimes after discovery, sometimes after summary judgment motions are filed, and sometimes even during appeal!

Concluding the mediation

Some considerations and goals for effectively concluding the mediation include:

- Prepare a draft settlement agreement in advance of the mediation, setting out best-case-scenario settlement terms (and alternatives).[9] The agreement should include, among other things, appropriate releases (past, present and future claims, defined), a choice-of-law provision for governing settlement and a forum for future disputes (consider a mediation clause using a mediator from INTA's Panel of Neutrals), and confidentiality/publicity provisions regarding the specific terms of the settlement (while the mediation process is confidential, the terms of a settlement need not be).
- To the extent possible, reach a full and final settlement that concludes all matters in dispute.
- Attempt to conclude the mediation with a final agreement that is fully executed by the right individuals with authority to bind the parties; at a minimum, it is advisable to get signatures on a term sheet with the mutual understanding (in writing) that the terms will be formally documented within a brief period of time following the mediation.

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1 This article was submitted to the International Trademark Association (INTA) for a presentation by the author as part of a panel at INTA's 2025 annual meeting in San Diego. At INTA, the author serves as Global Co-Chair of its ADR Subcommittee on Mediation and has been a member of its Panel of Neutrals since its creation. He is also a mediator for Lanham Act cases at the US District Court for the Northern District of Illinois. At Katten, the author is an Intellectual Property Litigation Partner and the National Co-Chair of the firm's Trademark, Copyright, Media and Privacy practice group.

2 The author feels venting at a mediation is best directed toward the Mediator, not "necessarily" to parties. Although as is the case with most rules, there are exceptions.

3 Depending on the Court and the judicial officer, a sitting judge may be considered best.

4 Any mediator with experience understands that at the outset, the parties may not know or may not acknowledge the uncertainty that exists. It is the mediators challenge to provide clarity without alienation.

5 It is helpful if the lawyer representing the party who chose the mark did not clear it for use or registration. However, if so, it is a challenge the mediator must overcome.

6 Any carrier should be involved directly or indirectly if this problem emerges. Often The Rules of the Court require carrier involvement.

7 Ordinarily, if the case is a bench trial, the trial judge would not, nor should they conduct the mediation. However, this scenario occasionally happens.

8 The parties may, of course, seek a stay even if they are using a private mediator. However, the granting of such relief is never a certainty. Especially if the case has been pending from sometime, and/or has been stayed in the past, and/or the date for a private mediator has not been scheduled.

9 The author does this as a litigator, and also has a rough draft of likely terms available as a mediator.

The EU Data Act is Here

By Trisha Sircar and Anita Hodea

The European Union (EU) Data Act (EDA) came into force on January 11, 2024, and took effect on September 12, 2025. It is set to reshape how companies handle data generated by connected products, smart devices and cloud services across Europe. Its goal is to create a fairer and more competitive digital economy by enhancing user rights, ensuring fair access to and sharing of data, and maintaining robust data protection safeguards.

Applicability: Who Must Comply?

The EDA has wide-ranging implications across industries, including fashion, where connected wearables, smart textiles and data-driven retail experiences are becoming increasingly integrated into both product innovation and customer engagement. It applies to both EU and non-EU organizations that manufacture or offer connected products in the European Union, process user-generated data within the European Union or provide data processing services to users in the European Economic Area (EEA). Any connected product that generates or collects data during the course of its use and communicates it via the internet or another network will fall within the scope of the EDA.

Key groups include:

- **Manufacturers of Connected Products:** Internet of Things devices, smart appliances, fashion wearables, smart clothes, vehicles or industrial machinery. From September 12, 2026, connected products placed on the EU market must be designed to allow users to access their generated data, either directly or on request.
- **Providers of Related Services:** Software-as-a-Service, Platform-as-a-Service, Infrastructure-as-a-Service or edge computing providers linked to connected products fall within scope. They must enable interoperability, data access and portability, and facilitate seamless switching between providers.
- **Data Holders and Recipients:** Obligations differ based on role. For example:
  - The "Data Holder," often the manufacturer or service provider, controls access to the data;
  - The "User," who may be the owner, renter or lessee of the product, has the right to access and share the data; and
  - The "Data Recipient," such as an after-market service provider or third party, may obtain access when authorised by the "User."
- **Non-EU Companies:** Companies established outside the European Union are also subject to the EDA if they place connected products on the EU market, provide related services or offer data processing services to EU/EEA users.
- **Public Authorities:** EU Member State authorities, along with EU institutions and agencies, may request data held by private entities during emergencies (such as cybersecurity events) or legal mandates, with appropriate safeguards in place. For nonemergency public interest requests, data sharing is permitted on fair, reasonable and non-discriminatory terms, and compensation must cover the costs incurred in making the data available.

Organizations can have multiple roles under the EDA simultaneously, such as data holder, user or recipient, making it critical to understand their obligations in the data ecosystem. This is relevant in the fashion industry, where collaboration among designers, manufacturers, retailers and technology providers around connected products and services is common.

The EU Data Act is Here *(continued)*

Key Points for Companies

- **Data Access and Portability:** Users have the right to request, access and use data generated by connected products of related services, including both personal and non-personal data, in structured, machine-readable formats. They may also share or transfer this data to other providers. Cloud providers must remove technical and contractual barriers to switching services, ensuring interoperability and seamless data portability.
- **Transparency:** Organizations must clearly inform users about what data is collected, how it's stored, retention periods and who can access it. Pre-contractual information may need updating to meet these requirements.
- **Contractual Fairness:** Business-to-business agreements must be fair, reasonable and non-discriminatory. Unilateral, unfair clauses related to data access, use or liability are prohibited. Restrictions on unfair contracts apply to new agreements from September 12, 2025, and will extend to pre-existing contracts from September 12, 2027. This will help smaller fashion tech startups compete fairly.
- **Safeguarding Data:** Companies must protect trade secrets and prevent unauthorized access, including from non-EU governments. Data holders may implement confidentiality agreements, technical safeguards and model contractual terms to protect sensitive information.
- **Compliance and Coordination:** The General Data Protection Regulation (GDPR) will continue to govern personal data. Organizations must segregate personal and non-personal data, document legal bases for sharing, and coordinate legal, information

technology (IT), product and compliance teams to ensure compliance with both the GDPR and the EDA.

Next Steps

Organizations in the fashion industry and beyond should engage in the following next steps to ensure compliance with the EDA:

- **Perform a Gap Analysis:** Determine what services, products and entities are in scope and what roles they have under the EDA.
- **Map Data:** Review and map data that is captured by the EDA.
- **Policies and Procedures:** Update policies and procedures to ensure compliance with data access rights and other compliance obligations under the EDA.
- **Contract Review:** Review and update applicable contracts and required documentation.
- **Safeguards and IT Security:** Review and ensure that appropriate safeguards and IT security are implemented.

Looking Ahead

The EDA is poised to transform Europe's digital economy, promoting competition, innovation and user empowerment. Compliance will require operational, technical and contractual adjustments, but it also presents opportunities. For example, small to medium-sized enterprises will gain protection against unfair contract terms; users can access valuable data to drive insights and innovation; and companies that act proactively will reduce regulatory risk and gain a competitive advantage. For fashion brands and tech startups, the EDA will likely open up new possibilities to access and share product-generated data, driving innovation in smart textiles, wearables and personalised retail experiences.

Major Changes to UK Design Law Under Consultation, Including AI-Generated Designs

By Nathan Smith and Anita Hodea

The UK Intellectual Property Office (UKIPO) has launched a major consultation on modernising the United Kingdom's design protection system (Design Consultation) — a move that could lead to the most significant transformation of design law in decades. The proposed reforms affect the United Kingdom's £100 billion design sector, which supports around 80,000 businesses and nearly two million jobs, including those in fashion, and are aimed at strengthening the United Kingdom's position as a global leader in design and innovation.

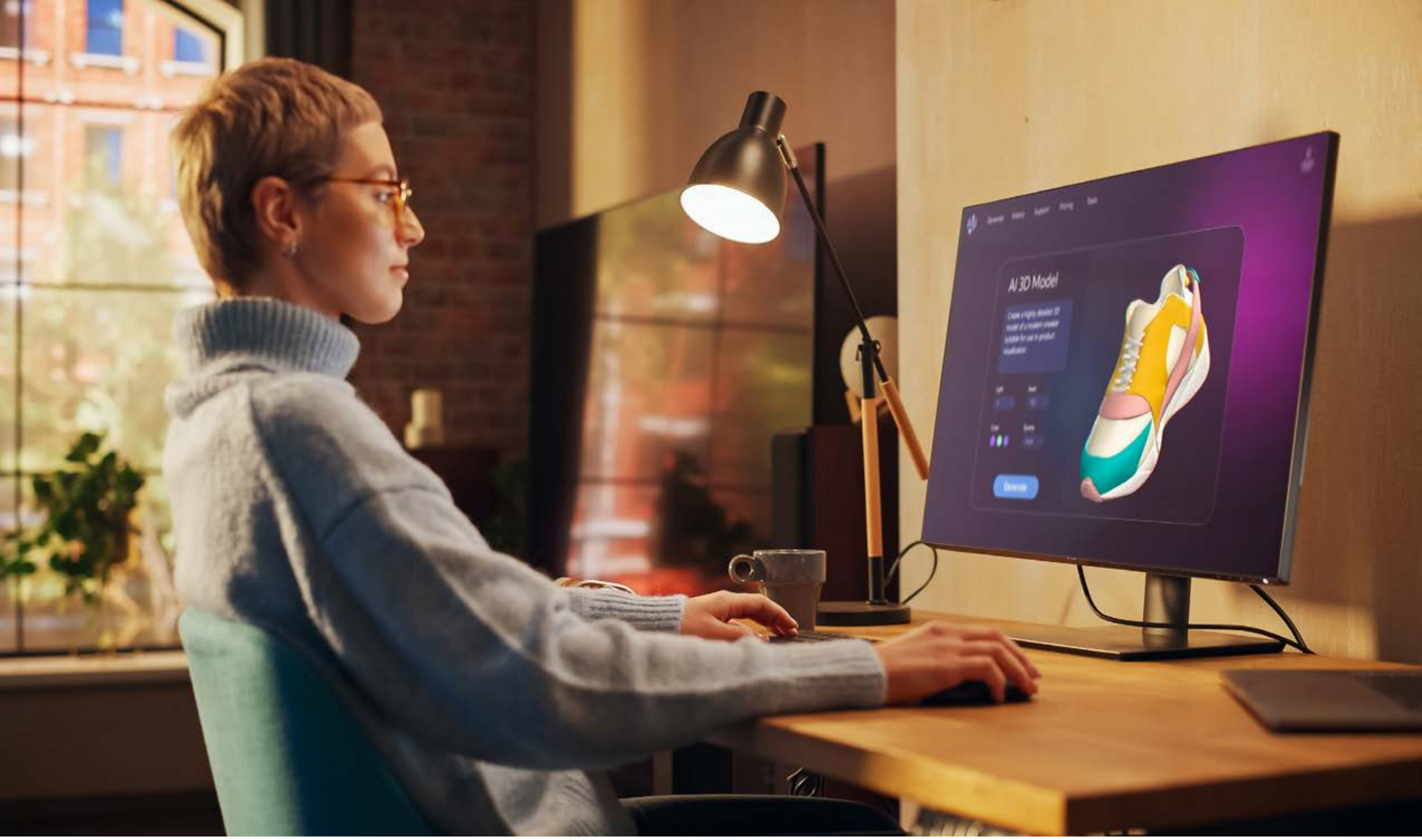
AI-Generated Designs

A central question for the Design Consultation is whether designs created without a human author, such as those generated entirely by artificial intelligence (AI), should continue to qualify for protection. Current UK law, under the Copyright, Designs and Patents Act 1988, allows protection for computer-generated designs without human authorship, but this provision appears to be rarely used. The UK government's preferred position is to remove this option unless clear evidence shows it encourages significant investment in generative AI. This would align the United Kingdom with other major jurisdictions, such as the United States and the European Union, which do not protect designs solely generated by AI.

The outcome of the Design Consultation will be particularly relevant for fashion brands that are increasingly incorporating AI and other technologies into their creative processes, which is transforming how designers work and how collections are developed. Businesses will need to carefully assess how to leverage AI tools while effectively managing the commercialization and protection of their design assets.

Broader Reforms Under Consideration

The Design Consultation sets out reforms to simplify, strengthen and future-proof design protection. Key proposals include:



- **Fighting design theft:** Giving the UK Intellectual Property Office (UKIPO) powers to search and reject designs lacking novelty or individual character and introducing "*bad faith*" provisions against dishonest applications.
- **Streamlining rights:** Simplifying overlapping protections, harmonising procedures and allowing applicants to defer publication of designs for up to 18 months, which would be particularly useful for industries with long product cycles, such as luxury or couture fashion.
- **Post-Brexit certainty:** Addressing the loss of automatic EU protection and exploring new solutions for businesses operating across markets.
- **Improving enforcement and access:** Creating a small claims track for design disputes within the Intellectual Property Enterprise Court, a specialist court in the United Kingdom that deals with legal disputes about intellectual property, to make enforcement more affordable for small businesses, including independent designers and emerging fashion brands.
- **Modernising for digital innovation:** Expanding accepted application formats to include computer-aided design (CAD) files and video clips, and updating definitions to ensure that digital and future technologies, such as digital fashion assets, are properly protected.

Next Steps

The Design Consultation invites input from designers, legal professionals and other stakeholders. Feedback received will inform future policy decisions and contribute to developing a system that fosters innovation across the UK fashion industry and beyond. The consultation will close on 27 November 2025. For further information or to participate in the Design Consultation, please refer to the UKIPO's official consultation here."

Cyberflashing and the Online Safety Act

By Terry Green and Larry Wong

Technology Secretary Liz Kendall has announced that cyberflashing will be categorised as a “priority offence” under the Online Safety Act (OSA) in a push to protect women and girls online, where one in three teenage girls report having received unsolicited pictures at least once.

This is not the first time that the Secretary of State has used its powers to amend the list of priority offences under the OSA via secondary legislation. In November 2024, this power was exercised, making the nonconsensual sharing or threat of sharing intimate images or film a priority offence.

Liz Kendall makes it clear – “what is illegal offline, must be illegal online” – this could mean more changes are on the horizon.

Cyberflashing

Cyberflashing is the unsolicited sending of explicit images or videos to an individual via digital means. This can occur over social media, dating apps or even Bluetooth channels. Cyberflashing became a criminal offence in January 2024 and has been classified as a non-priority offence since the OSA was implemented.

Priority vs Non-Priority Offences

Platforms are mandated by the OSA to conduct risk assessments for each type of priority offence (also known as illegal harms) and ensure users are protected from such illegal harm. As a non-priority offence, platforms are required to take proportionate measures to ***mitigate*** the risk of harm and to swiftly remove content relating to such an offence.

However, the designation of cyberflashing as a priority offence will mean platforms have additional requirements to protect users from illegal harms arising from it, such as:

- Assessing the risk of harm arising from the priority offence as a standalone risk in the illegal harms risk assessment;
- Taking proportionate measures to ***prevent*** the risk of harm;
- Minimising the length of time such priority content is present on the service; and
- Meeting the same requirements for non-priority offences.

What Does This Mean for Services?

In line with the process in November 2024, platforms should expect to have ***21 days after cyberflashing is designated*** as a priority offence for the requirements to take effect. Platforms should:

- Update their illegal harms risk assessments;
- Amend the necessary policies and procedures to ensure cyberflashing is taken into account in how a platform protects its users;
- Ensure its measures are effective in ***preventing*** (rather than mitigating) the risk of harm from cyberflashing;
- Ensure measures are in place to minimise the time cyberflashing content is present on its service; and
- Ensure the relevant nominated person or accountable stakeholders are aware of the additional designation.

Failure to do so could lead to ***fines of up to £18 million or 10 percent of global turnover***, as well as services being blocked in the United Kingdom.

This designation may not result in substantial changes for platforms that have identified an existing risk of cyberflashing, as it is a risk they should have already taken into account. However, it signals the need for platforms to continue to track new types of illegal harms and priority offences (as already required under the Illegal Content Code of Practice).

The Importance

This is an important step in the government's plan to protect women and girls against violence. Studies show that 58 percent of girls and women aged 15-25 have experienced online harassment, and less than 50 percent of women feel that social media is a safe space. These experiences online demonstrate the critical need to keep women and girls safe online.

As the UK Office of Communications (Ofcom) enters the next stage of OSA implementation, the protection of women and girls online is next up, as the industry anticipates publication of the finalised guidance by Ofcom for "A safer life online for women and girls."

Katten can advise on your Online Safety Act requirements, assist you in conducting risk assessments and advise on the implementation of measures to ensure you are compliant. If you would like more information, please contact the authors, Terry Green and Larry Wong.

Selecting Who Sues: Picking the Proper Party for Offensive Trademark Litigation

By Matt Hartzler

When a brand has identified a threat to its trademark rights — whether from a competitor or counterfeiter — the goal is almost always to resolve the dispute without the expense and distraction of a lawsuit. But when those letters have gone unanswered or are contested without success, filing a complaint in federal court alleging trademark infringement under the Lanham Act may be necessary.

When a brand has identified a threat to its trademark rights — whether from a competitor or counterfeiter — the goal is almost always to resolve the dispute without the expense and distraction of a lawsuit. But when those letters have gone unanswered or are contested without success, filing a complaint in federal court alleging trademark infringement under the Lanham Act may be necessary.

Determining which entity should be identified as the plaintiff in a suit may be easy for some organizations. The task will be trickier for brands with corporate parent complexity or entities spread across different jurisdictions, or those spawned from an individual designer. A recently published Second Circuit case, *Ripple Analytics Inc. v. People Ctr., Inc.*, 153 F.4th 263, 2025 WL 2446314 (2d Cir. Aug. 26, 2025), discusses which party should sue for trademark infringement in a federal case. It also provides lessons on what to do (and avoid doing) if the initial complaint does not get it right.

Selecting Who Sues: Picking the Proper Party for Offensive Trademark Litigation *(continued)*

The traditional maxim is that only a trademark owner may sue to enforce rights under the trademark. Suing as the entity on the trademark registration is the obvious answer, but the realities of business — multiple licensees, intellectual property (IP) holding companies, mergers and acquisitions, losing track of assignments, and even simple miscommunication between attorney and client — mean that mistakes may be made.

For the plaintiff in *Ripple*, these mistakes ultimately led to the dismissal of its case. Ripple Analytics alleged that it owned a federal trademark for "RIPPLE" associated with human resources software, and it sued a party using "RIPPLING" for an allegedly similar product offering. Discovery unveiled that all of the trademark rights had actually been assigned to the entity's owner/chief executive officer (CEO) as an individual, even though that assignment was never recorded with the US Patent and Trademark Office (USPTO). The court and the substituted-in counsel for Ripple acknowledged that this mistake arose from "sloppy drafting" of the complaint.

Such a defect should not be fatal. Rule 17 of the Federal Rules of Civil Procedure states, "An action must be prosecuted in the name of the real party in interest." But it goes on to explain that a "court may not dismiss an action for failure to prosecute in the name of the real party in interest until, after an objection, a reasonable time has been allowed for the real party in interest to ratify, join, or be substituted into the action." Once corrected, "the action proceeds as if it had been originally commenced by the real party in interest." The advisory committee notes explain that this flexible rule is "intended to prevent forfeiture when determination of the proper party to sue is difficult or when an understandable mistake has been made."

Ripple's mistake was that it never clearly followed any of the three clear options for curing this defect. Ripple did not join the owner/CEO to the suit, nor did it move to substitute the owner/CEO as the proper party. Instead, Ripple attempted to have the owner/CEO ratify the action via declaration:

> "I have been overseeing and participating in all legal proceedings in this matter from the beginning. I have read the complaint and am fully familiar with all of the allegations in the complaint. Any judgment obtained in this or any case pursuing the interests of Ripple will be for my sole benefit; therefore, I have a very strong interest in the outcome of this case … By this Declaration, I ratify all of Plaintiff's allegations in this case and each cause of action alleged. As a real party in interest, I am prepared to step in immediately as Plaintiff."

The lower court and the Second Circuit were not satisfied. "But that is not a ratification under Rule 17. The sine qua non of ratification is agreeing to be bound by the result." Nothing the owner/CEO stated is "the same as agreeing to be bound by the result of that case." This is not simple, which is a Second Circuit requirement. For this proposition, the appellate decision cited a long string of cases: *Fed. Treasury Enter.*, 726 F.3d at 83; *ICON Grp., Inc. v. Mahogany Run Dev. Corp.*, 829 F.2d 473, 478 (3d Cir. 1987) (noting that the ratifying party must "by acknowledgment or other ratifying instrument … agree to be bound by any judgment resulting from the action"); *Wieburg v. GTE Sw. Inc.*, 272 F.3d 302, 307 (5th Cir. 2001) (same); *Mutuelles Unies v. Kroll & Linstrom*, 957 F.2d 707, 712 (9th Cir. 1992) (same); *Haxtun Tel. Co. v. AT&T Corp.*, 57 F. App'x 355, 359 (10th Cir. 2003) (same); 6A Wright & Miller's Federal Practice & Procedure § 1555 (3d ed. 2010) (defining ratification as "an arrangement by which the real party in interest authorizes the continuation of an action brought by another and agrees to be bound by its result, thereby eliminating any risk of multiple liability").

Even after the court determined that this problem would lead to dismissal of its case, Ripple attempted to skirt around this issue by offering to file an amended pleading stating that it was a licensee of the actual trademark owner. This was also unsuccessful at keeping the suit alive. Although licensees *may*

have the ability to sue under the Lanham Act on behalf of the actual owner, that depends on a number of options: whether the licensee is exclusive; nonexclusive, but the US distributor for a foreign mark; and what the actual terms of the agreement state. In Ripple, there was no actual license agreement — Ripple stated that it was a "user" and "implied licensee" of the mark. Additionally, the assignment expresslyWW assigned to the owner/ CEO all rights to "institute and prosecute" any suit for rights associated with the mark. Again, the decision cited a wealth of authority across circuits explaining that the rights granted in agreement between the plaintiff and the mark owner governs whether the plaintiff has standing to sue. Accordingly, Ripple's motion to amend was denied.

Brands need not be overly worried about a similar result. The lower court noted that "[r]arely in civil litigation is a case dismissed" based on Rule 17. This case provides an effective road map for avoiding similar problems. If miscommunication or sloppy drafting leads to the wrong party as plaintiff, there are "generous remedial procedures" to avoid such a result: joinder, ratification, assignment, substitution and even invoking certain license arrangements.

Finally, note that these procedures only concern *offensive* actions. If positioned as a defendant in a trademark suit, Rule 17(a)'s requirements regarding the "real party in interest" do not govern.

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[1] *Fed. Treasury Enter. Sojuzplodoimport v. Spirits Int'l N.V.*, 623 F.3d 61, 70 (2d Cir. 2010) (quoting *Island Software & Computer Serv., Inc. v. Microsoft Corp.*, 413 F.3d 257, 259–60 (2d Cir. 2005)) ("[O]wnership of the relevant trademark is one of the 'necessary elements . . . of trademark infringement under the Lanham Act.'").

[2] *Ripple Analytics Inc. v. People Ctr., Inc.*, No. 20-cv-894, 2024 WL 552801, at *3 (E.D.N.Y. Jan. 5, 2024), *report and recommendation adopted* (Feb. 5, 2024).

[3] Fed. R. Civ. P. 17(a)(3).

[4] *Id*. advisory committee's note to 1966 amendment.

[5] *Ripple*, 153 F.4th at 269.

[6] *Id*. at 270.

[7] *Ripple*, 2024 WL 552801, at *4.

[8] *See* 5 McCarthy on Trademarks and Unfair Competition § 32:12 (5th ed.)

[9] *Ripple*, 153 F.4th at 271–72.

[10] *See* 6 McCarthy on Trademarks and Unfair Competition § 32:12 (5th ed. 2021) ("[I] f the license agreement prohibits the licensee from having the right to sue, then it has no right to sue under § 43(a)."); *see also Fin. Inv. Co. (Bermuda) Ltd. v. Geberit AG*, 165 F.3d 526, 532 (7th Cir. 1998) ("Even assuming they met the statutory requirement of being a person who believes that he or she is likely to be damaged by a likelihood of confusion, the express terms of the license prohibited any of them from bringing suit in their own capacity." (quotation marks omitted)); *Kroma Makeup EU, LLC v. Boldface Licensing + Branding, Inc.*, 920 F.3d 704, 708 (11th Cir. 2019) (holding that a licensee did not have standing to sue under § 43(a) because of "the rights granted to the licensee in the licensing agreement" (quotation marks omitted)

[11] *Ripple Analytics Inc. v. People Ctr., Inc.*, No. 20-cv-894, 2023 WL 4763256, at *1 (E.D.N.Y. July 26, 2023), *aff'd*, 153 F.4th 263 (2d Cir. 2025).

[12] *Id*.

Supply Chain Gang: Italian Fashion Seeks to Boost Transparency with New Certification and Audit System

Claudio Divizia/Shutterstock.com

By Cynthia Martens*

Artisan craft cannot be sidelined in a world of fast fashion, says Italy's leading fashion trade associations, which convened on October 15 for a discussion with the Ministry of Enterprises and Made in Italy (MIMIT). Representatives from Confindustria Moda, CNA Federmoda, Confartigianato Moda, the Camera Nazionale della Moda Italiana and the Fondazione Altagamma were in attendance, with the next "Fashion Table" slated for November 17.

The meeting came on the heels of a new package of fashion-related measures approved by the Italian Senate. The amendments create a new certification system to increase traceability and tout compliance with labor laws, which many view as a selling point for consumers who demand greater supply chain transparency. Small- and medium-sized businesses are the backbone of the Italian economy, and for many operating in the global fashion sector, the "Made in Italy" label serves as a crucial marketing tool, representing good quality, craftsmanship and adherence to fair labor practices under Italian law.

Recent investigations into subcontracting by Italian luxury brands have threatened the reputation of the "Made in Italy" brand. Italy's antitrust regulator, the Autorità Garante della Concorrenza e del Mercato (AGCM), fined the Giorgio Armani fashion group and one of its units €3.5 million (approximately $4 million) for unfair commercial practices last August, just a month before the designer's death at 91 years old. The company denied allegations of wrongdoing and indicated that it would appeal. Additionally, earlier in the year, news broke that national fashion gems Valentino and Loro Piana were under investigation for abusive practices in their supply chains.

In a joint release, Confartigianato Moda and CNA Federmoda urged the Italian government to take strong action, stating that "recent investigations into iconic Made in Italy companies have revealed opaque practices and profound imbalances in the production chain. The credibility of an entire sector, composed primarily of micro and small artisan businesses that guarantee quality, employment and connection to territory, is on the line. Made in Italy is not a label, it is an entire value chain."

In a press statement, Senator Adolfo D'Urso said the newly approved legal measures were intended to "firmly defend Italian fashion, to protect its reputation and the values that have made it synonymous with beauty, quality, and authenticity."

The new package of amendments introduces a voluntary supply chain certification and audit system. In addition, companies that engage subcontractors will be obligated to include legal clauses in their contracts requiring subcontractors to comply with applicable regulations and demand evidence of employment law and tax law compliance. Certification will be valid for one year and subject to renewal upon audit. MIMIT will establish a public register of certifications, and certified companies can market their products using the designation "filiera della moda certificata", or "certified fashion supply chain". The use of this tag by companies that have not completed the certification process will be sanctioned by the AGCM, with fines reaching €50,000, or about $58,000 at the current exchange rate.

* *Cynthia Martens is a former Katten Intellectual Property associate who now serves as outside counsel to the firm.*

Events / Recognitions

- **Katten Sponsors and Attends 2025 WWD Apparel & Retail CEO Summit**

  The firm was a sponsor of the 2025 Apparel & Retail CEO Summit, held on October 28-29. Partner and National Co-Chair of the Trademark/Copyright/Privacy Group **Karen Artz Ash**, along with Intellectual Property Partner **Jessica Kraver** and Corporate Partner **Ilana Lubin**, attended the event. Celebrating Women's Wear Daily's (WWD) 115th anniversary, this year's theme, "Powering Progress: Past, Present, Future," reflects on the evolution of both the publication and industry in the wake of creative changes at major fashion houses, as well as broader pressures from economic policies and the rise of artificial intelligence. To celebrate this "incredibly dynamic moment in fashion, retail, beauty and beyond," this year's event featured speakers from inside and outside the industry who discussed the changes taking place, those that lie ahead and their potential impact on the industry in years to come. Notable speakers included the chief executive officer of Bloomingdale's, the chief executive officer of Saks Global Operating Group, the president and chief executive officer of Ralph Lauren Corporation, the co-chief executive officers of Nordstrom, the creative director of Givenchy and Vera Wang.

- **New York Intellectual Partners Attend CFDA's New York Fashion Week Kick-off Event**

  On September 10, Intellectual Property Partners **Karen Artz Ash**, National Co-Chair of the Trademark/Copyright/Privacy Group, **Jessica Kraver** and **Ilana Lubin** attended a New York Fashion Week kick-off event, sponsored by the Council of Fashion Designers of America (CFDA) at the Rainbow Room. The event gathered more than 200 renowned names in the fashion industry, including CFDA board member Tory Burch, Anna Wintour and the CFDA's Emerging Designer of the Year, Henry Zankov.

- **New York Intellectual Property Partners to Attend the Luxury Law Summit New York**

  On November 12, Intellectual Property Partners **Karen Artz Ash**, National Co-Chair of the Trademark/Copyright/Privacy Group, **Jessica Kraver** and **Ilana Lubin** will attend the Luxury Law Summit New York at The Metropolitan Club. The event brings together the brightest minds in the luxury legal sector for a day of thought leadership, innovation and strategic insight, as well as knowledge sharing and actionable guidance from executives and leaders across the luxury business and legal landscape. This year's summit will provide an opportunity for general counsel and in-house legal teams to connect, explore current trends and discuss the evolving legal and commercial challenges of the luxury industry.

Karen Artz Ash to Join Panel for Cardozo Law's Intellectual Property Law Society

On November 19, Intellectual Property Partner **Karen Artz Ash**, National Co-Chair of the Trademark/Copyright/ Privacy Group, will participate in a panel on mergers and acquisitions in the fashion industry, hosted by Cardozo Law's Intellectual Property Law Society.

- **Katten Celebrates Attorneys Honored by *Best Lawyers*®**

  The 2026 edition of *The Best Lawyers in America*®, a universally regarded guide to legal excellence, recognized 101 Katten attorneys, including multiple from our Intellectual Property practice: **Kristin J. Achterhof** - Litigation - Intellectual Property, Litigation - Patent, Patent Law, and Trademark Law; **Karen Artz Ash** - Trademark Law; **Christopher A. Cole** - Advertising Law; **David Halberstadter** - Entertainment Law - Motion Pictures and Television, Litigation - Intellectual Property, Media Law, and Trademark Law; **Floyd A. Mandell** - Litigation - Intellectual Property and Trademark Law; and **Carolyn M. Passen** - Trademark Law. Attorneys on *The Best Lawyers in America* list are reviewed by their peers based on professional know-how and undergo an authentication process to ensure they are currently practicing and in good standing.

- **Katten's Rising Leaders Named to 2026 *Best Lawyers: Ones to Watch*® List**

  The 2026 edition of *Best Lawyers: Ones to Watch*® in America honored 80 Katten attorneys, including **Alexandra R. Caleca** in the categories of Intellectual Property Law and Litigation - Intellectual Property, as well as **Julia L. Mazur** in the category of Litigation - Intellectual Property. The guide recognizes associates and notable lawyers for their outstanding professional excellence in private practice in the United States.

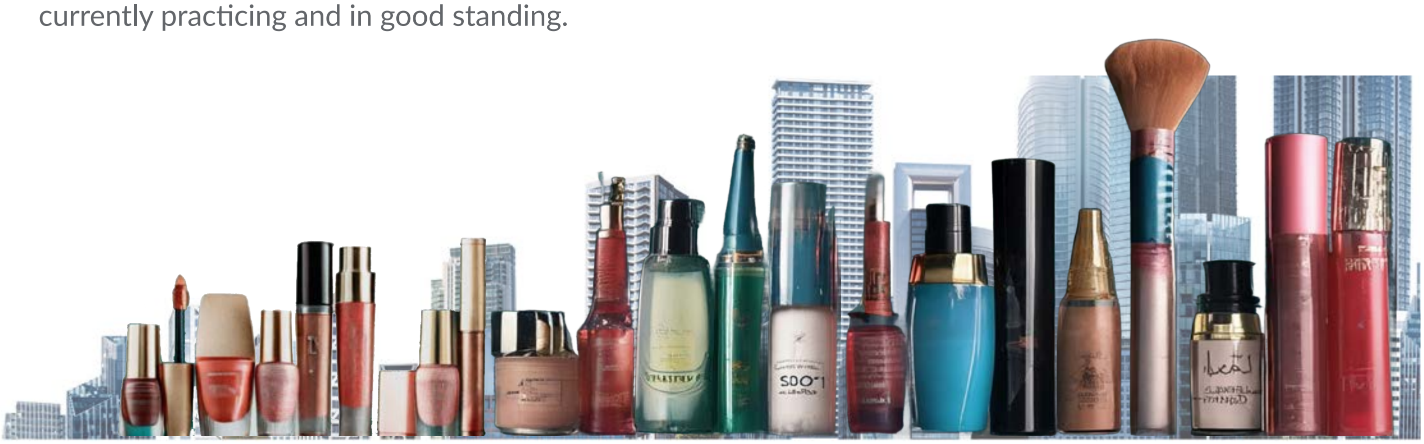
- **Katten Attorneys Named to 2025 New York Metro Super Lawyers List**

  The 2025 New York Super Lawyers list recognized 28 of Katten's attorneys, including Intellectual Property Partner **Karen Artz Ash**, National Co-Chair of the Trademark/Copyright/ Privacy Group. Super Lawyers, part of Thomson Reuters, is a rating service of outstanding lawyers from more than 70 practice areas who have attained a high degree of peer recognition and professional achievement. The annual selections are made using a patented multiphase process that includes a statewide survey of lawyers, an independent research evaluation of candidates and peer reviews by practice area.

- **Katten Distinguished in Legal 500 UK Guide**

  The Legal 500 United Kingdom 2026 guide named seven of Katten's practice areas and 14 of our attorneys. Ranked practice areas included Hospitality and Leisure, a category for which London Deputy Managing Partner **Terry Green** and Real Estate Partner **Gavin Vollans** were also individually recommended.

  Read more about the rankings.



More NEWS to KNOW

- **Not So Fast ... Online Retailer Wants New Trademark Trial Against Penn State**

  In this article, Intellectual Property Associate **Lauren Eiten** discusses the ongoing trademark dispute between The Pennsylvania State University (Penn State) against online retailer Vintage Brand, LLC (Vintage), along with its manufacturer and distributor Sportswear Inc. d/b/a Prep Sportswear (Sportswear) and their owner Chad Hartvigson. Vintage recently filed a renewed motion seeking judgment as a matter of law or, alternatively, a new trial. This motion follows a jury verdict in November 2024 that found Vintage liable for willful trademark infringement and awarded Penn State $28,000 in damages. After the trial, Penn State sought a permanent injunction against the defendants as well as attorneys' fees and costs. At the end of June, the court granted Penn State's motion for a permanent injunction but denied Penn State's request for attorneys' fees.

  Read the full article.

- **White House Reveals AI Action Plan**

  This article by Privacy Officer **Trisha Sircar** and Financial Markets and Funds Associate **Alexander Kim** discusses the White House's "Winning the AI Race: America's AI Action Plan", released on July 23, in accordance with President Donald Trump's January executive order on Removing Barriers to American Leadership in AI. As outlined by the White House, winning the AI race will usher in a new golden age of human flourishing, economic competitiveness and national security for the American people. The Action Plan identifies over 90 federal policy actions across three pillars – Accelerating Innovation, Building American AI Infrastructure, and Leading in International Diplomacy and Security – that the administration will take in the coming weeks and months.

  Read the full article.

- **Anita Hodea Quoted in Multiple Media Outlets on the EU Data Act Coming Into Force**

  Intellectual Property Associate **Anita Hodea** was quoted in the media, including *Tech Informed*, *City AM* and *The Legal Diary*, regarding the EU Data Act (Act), which came into force on September 12. The Act sets a new benchmark for how data is accessed, shared and governed in Europe's digital economy. "The Act aims to create a fairer and more competitive data ecosystem, applying to manufacturers and service providers of connected products, providers of related digital services, and cloud and edge service providers," Anita said, adding that the Act "encompasses all data processing activities, covering both personal and non-personal data."

  Read the full article.

- **Terry Green Quoted by Global Media Outlets on US Lawsuit Against Ofcom**

  Terry Green was quoted in the media, including *Reuters*, *Global Banking & Finance Review*, *U.S. News & World Report*, the *Straits Times (Singapore)* and *Yahoo Finance*, about the US lawsuit brought by internet forums 4chan and Kiwi Farms against the UK Office of Communications (Ofcom), claiming that Ofcom's enforcement of the Online Safety Act (OSA) violates Americans' freedom of speech. 4chan is currently being investigated by Ofcom regarding compliance with the OSA and is under threat of financial penalties. The OSA applies extraterritorially to any social media platform with UK users, regardless of where the platforms are based. Terry called the case a "critical moment" in Ofcom's enforcement of the OSA. "Ofcom's response to this lawsuit will be crucial as this [challenge by 4chan] has the risk of being replicated across the United States and even globally," he said.

  Read the full article.

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Katten is a full-service law firm with one of the most comprehensive fashion law practices in the nation. We provide innovative advice on the legal and business issues faced by national and international manufacturers, designers, marketers, licensors, licensees and retailers of fashion items including a full range of apparel, footwear, jewelry, cosmetics and luxury goods.

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