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# **Pavia e Ansaldo obtains for Proras a favourable sentence from the Supreme Court regarding counterfeit by equivalents and unfair competition**

***Milan, 11 February 2020*** - Pavia e Ansaldo obtained from the Supreme Court the cancellation with remission to the preceding judge of the sentence with which the Court of Appeal of Bologna had excluded counterfeit of a patent belonging to the company Proras by its main competitor (Nuova Rivart S.r.l., currently belonging to the Mauro Saviola Group) regarding an innovative process for the extraction of tannin.

The judges of Bologna deemed the forgery by “equivalents” inexistent since the differences between the innovative process patented by Proras and the one considered as forgery used by Nuova Rivart, regarded a phase of the manufacturing process reclaimed by the requesting Proras only in an advanced stage of the examination process of the European patent, that wasn't included in the original patent request.

The Supreme Court, on the contrary, agreed with Proras's thesis, and stated that objective criteria must be applied in the interpretation of a patent, as granted at the end of the procedure, without taking into consideration declarations and the subjective condition of the requesting party during the examination. The Supreme Court agreed on another argument, stating that the judges of the appeal failed to evaluate if Nuova Rivart's behaviour could constitute an act of unfair competition against Proras.

Another reason for remission regarding the burden of proof in the field of forgery by equivalents has been considered absorbed by the Supreme Court adhering to the underlying substantial matter, favourable for Proras in this case as well.

This controversy stands out both for the complexity of the factual circumstances (the judiciary proceedings started as far back as 2001), and because it regards the matter of counterfeit by equivalents, on which Italian judges continue to distinguish themselves at European level for the high grade of the analysis lavished in their decisions. On all these aspects the judges of the Court of Appeal will have to decide in the context of the remission proceeding that Proras intends to promptly begin.

Pavia e Ansaldo acted with a team directed by partner **Gian Paolo Di Santo**, supported by counsel **Gabriele Girardello** for the substantial and patent profiles and by counsel **Arianna Paternicò** for organizational and judiciary aspects. Also partners **Maria Elena Armandola** and **Maurizio Vasciminni** were associated in the defense.