Unified Patent Court
Einheitliches Patentgericht
Juridiction unifiée du brevet

UPC_CFI_455/2024
ACT_ 44624/2024
UPC_CFI_684/2024
CC_60624/2024

DECISION
of the Court of First Instance of the Unified Patent Court
Local Division of The Hague
delivered on 29 August 2025
concerning EP 1651838

HEADNOTE: expired patent; final cost decision; security deposit
KEYWORDS: R.3(c) UPCA

CLAIMANT/DEFENDANT IN THE COUNTERCLAIM

CITY GLASS AND GLAZING PRIVATE LIMITED
Kerala – IN

Represented by Joel Coles, Peter FitzPatrick and Charlotte Malley, Powell Gilbert

Referred to as "**Claimant**" or "**City Glass**"

DEFENDANTS/CLAIMANTS IN THE COUNTERCLAIM

1) **MAARS HOLDING B.V.**
- Newtonweg 1 - 3846 BJ - Harderwijk, Gelderland – NL

2) **MAARS PARTITIONING SYSTEMS B.V.**
- Newtonweg 1 - 3846 BJ - Harderwijk, Gelderland – NL

3) **MAARS PROJECTEN B.V.**
- Newtonweg 1 - 3846 BJ - Harderwijk, Gelderland – NL

4) **MAARS FRANCE**
95 Rue La Boetie - 75008 - Paris -FR

Defendants 1 to 4 in the infringement action are also claimants in de counterclaim action and are referred to collectively as "**Maars**" (in plural) and individually as "**Maars Holding**", "**MPS**" "**Maars Projecten**" and "**Maars France**", respectively.

Maars are **represented by** Michiel Rijsdijk, Mr. M.J. Bosma, M.H. Luten and D.E. Colenbrander

Patent no.	*Proprietor/s*
EP1651838	CITY GLASS AND GLAZING PRIVATE LIMITED

DECIDING JUDGES
This decision is issued by the panel.

LANGUAGE OF PROCEEDINGS: English

ORAL HEARING: 8 July 2025

I. SUMMARY OF FACTS

1. City Glass is a company established in 2005 and based in Ernakulum, Kerala (India). It is a small (seven employees) business focusing on the design and marketing of products including those containing a self-locking glazing system according to the patent. It sells its products both domestically and internationally through distributors. The inventor of the patent is a majority shareholder of City Glass since 2015.

2. City Glass was the proprietor of European Patent EP 1 651 838, entitled "G*lazing System*" ("EP 838" or "the patent"). The patent was granted on 20 April 2011, upon an international application filed on 17 April 2004 (published as WO 2005/010310 on 3 February 2005), claiming priority to United Arab Emirates patent application AE 2422003, which has a filing date of 30 July 2003. No opposition was filed.

3. EP 838 was in force in several Contracting Member States until expiry, including in Belgium, France and the Netherlands. The patent expired on 14 July 2024. In Austria the patent was valid until 15 July 2020.

4. The patent relates to a glazing system. In the original English language, the only claim of the patent, divided into features as agreed on by the parties, reads as follows:

> 1. Glazing system comprising
> 1.1. two aluminium profiles having a male and a female aluminium profile (1, 2) creating a secure space for keeping a glass panel tightly in position,
> 1.2. said profiles (1, 2) forming a self locking mechanism, and
> 1.3 a grooved rubber beading positioned between the glass panel and the profiles (1, 2),
> 1.4. said grooved rubber beading being forced in between the glass panel and the profiles (1, 2) and creating outward forces on the upper legs of the profiles (1, 2) forcing them apart,
> 1.5. said profiles (1, 2) comprising curved hooking parts
> 1.6. adapted such that the turning movements provided by said outward forces and external forces at the pivotal fulcrum forces the locking mechanism together to further tighten the locking mechanism in order to arrest the glass panel in position.

5. The – compact - description of the patent contains inter alia the following paragraphs:

Technical Field

[0001] The current invention relates to a unique and compact self locking mechanism, composed of two aluminum [sic] profiles designed in such a way to self lock when Glass is placed on the female profile and the male profile is inserted and the mechanism further tightens grip on the glass edges when pushed in a grooved rubber (which is mandatory for glazing to avoid touching metal, to allow expansion and to absorb impacts).
(…)
Disclosure of the Invention:
(…)
[0006] In view of the above factors and considering the demand for faster glazing, the current invention according to clai[m] 1 emphasizes the issue of safety and at the same time addresses the importance for aesthetic appeal, allowing enough clearance for glazing (one could decide glass size before installing frames at site) and making site installation easy.

Brief Description of the Drawings

[0007]
- Fig 1 & Fig 2: Female and Male profiles.
- Fig 3: Fixing of profile using a screw.
- Fig 4: Glass Packing on the part 2 Profile (minimum 2 per Glass panel).
- Fig 5: 10mm thick Glass (suitable to the frame size) placed over the Part 2 profile in Fig 5.
- Fig 6: Profile Part 1 through the gap on Profile Part 2.
- Fig 7: Insertion of grooved rubber beading between the gap of profiles from both sides of the glass panel using force.
- Fig 8: Scientific principle of the mechanism of the glazing system explained.

Preferred Embodiments of the Invention

[0008] The Glazing System consists of two extruded Aluminum profiles (Male & Female) designed in such a way to create a secure space for keeping Glass Panels safely & tightly in position. The important aspect of the invention is that when the Glass panels placed on the Female profile and the Male profile is inserted and the Rubber beading is forced in (by hand) between the Glass & Profiles (both sides) creates outward forces on the upper legs of the profiles (forcing them apart). The turning movements at the pivotal fulcrum forces the locking system together which is due to the curved hooking parts on the profiles (at bottom) engage each other to self lock and thus arrest the profiles in position.

Method of Industrial Application of the Invention

[0009] The scientific principles used are the NEWTON'S LAW OF FORCE and the property of Elasticity of the rubber beading and the transmission of the rotational moments of the moving parts around the Fulerum [Fulcrum, JR]. The following explanation is read in relation to Fig 8:

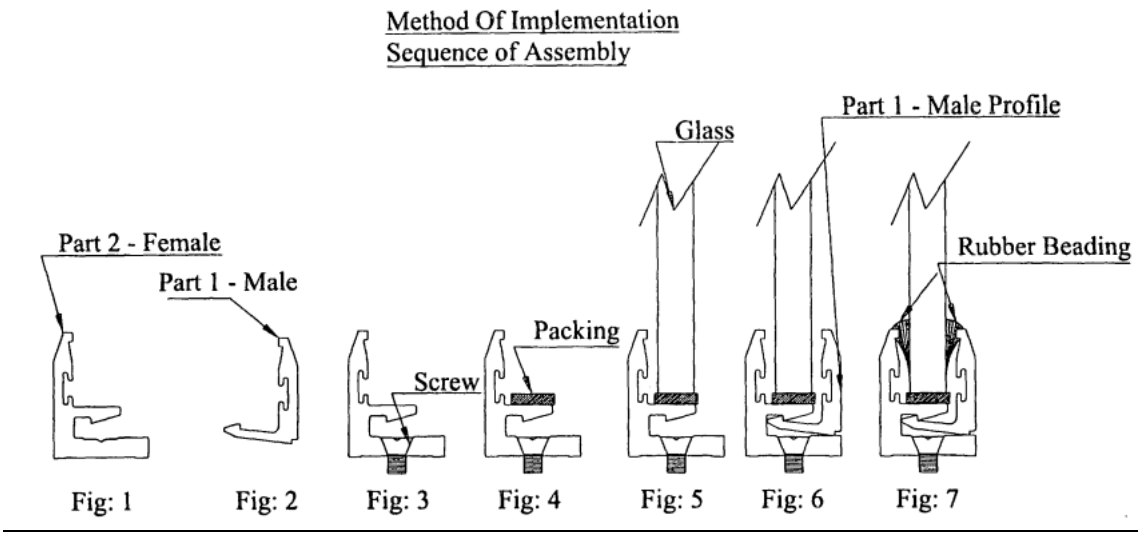
F - Outward Force (Due to Rubber Beading)
P - Inward Force (Creating the Locking)
C - Fulcrum Point

[0010] Insertion of the rubber beading between the glass and the profile sections (Part 1 & 2) creates outward forces (F) to the legs of both sections forcing them apart "F". A turning moment at the pivotal fulcrum (C) forces the locking system together (P). The locking system is due t[o] the curved hooking

profile of the lock built into the legs of the sections (Male & Female) creating mating edges, hence arresting the profile section in position.

[0011] The pre-determined variables are the sizing of the glass and that of the rubber beading. In this arrangement any external forces applied due to conditions like wind or vibrations caused by physical movements whose action may act to dislodge the Glass from its set position only acts to further tighten the fastening mechanism of this system to arrest the Glass panel in position.

6. The eight figures of the patent specification are shown below.



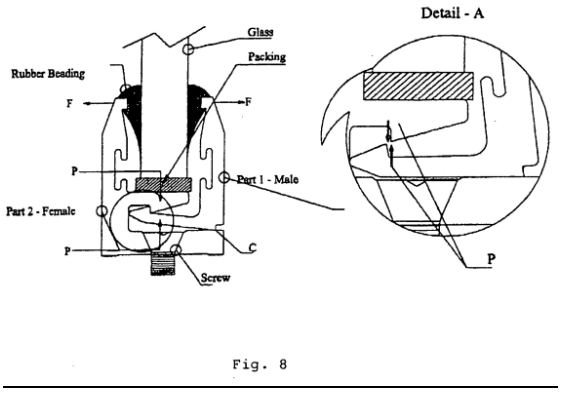
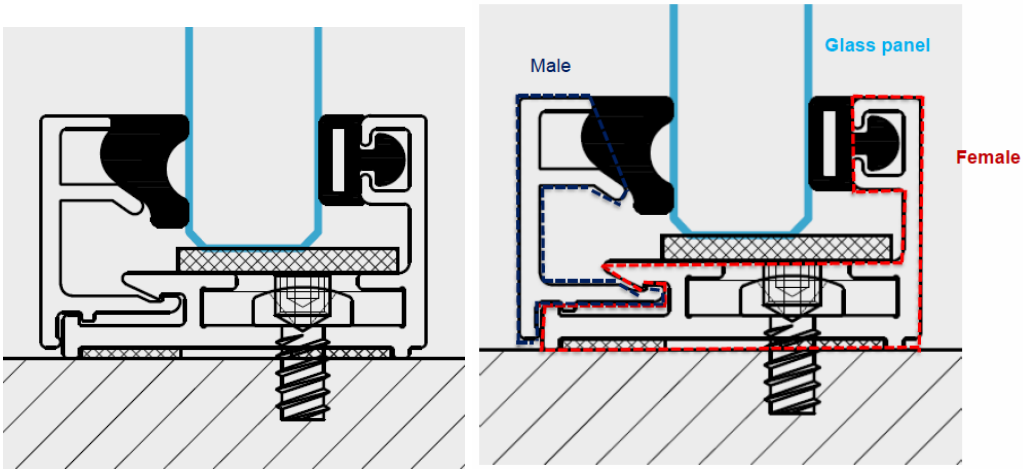


Fig. 8

7. Maars are members of the same group of companies. Maars Projecten, MPS, and Maars France are all subsidiaries of Maars Holding. MPS develops, manufactures and commercializes among others sustainable and demountable glass walls which it sells as “Horizon Products”. Maars Projecten and Maars France deliver and install Horizon Products that they purchase from MPS in the Netherlands and France, respectively.

8. The Horizon Products all incorporate the allegedly infringing Horizon System, illustrated in the Maars Product Brochure as follows:

In the Maars Technical Brochure, the following details of the self-locking mechanism are shown (on the right side as marked up by City Glass (fig 6 SoC):



II.REMEDIES SOUGHT AND SUBMISSIONS

9. Arguing that Maars directly or indirectly infringes the patent, literally or by equivalence, in UPC-territory with its Horizon Products, City Glass, after limiting its requests in the interim phase (see 14 below), request that the Court:
    - make a finding that EP 838 has been infringed by the acts of each of the Defendants in respect of the Horizon Products,

and to order with immediate enforceability that:

- the Defendants and each of them, within three weeks after service of the judgment to be rendered in these proceedings, is ordered to inform the Claimant of
    i. the origin and distribution channels of the infringing Horizon Products and any other infringing products incorporating the Horizon System;

ii. the quantities produced, manufactured, delivered, received or ordered, as well as the price(s) obtained for the infringing Horizon Products and any other infringing products incorporating the Horizon System; and
iii. the identity of any third person involved in the production or distribution of the infringing Horizon Products and any other infringing products incorporating the Horizon System.

- any failure to comply with the order under the paragraph above will render the Defendants and each of them liable to pay to the Court a penalty of up to €500 (Five Hundred Euro) per day for the violation of the order, or such other amount as found appropriate by the Court;
- the Defendants and each of them are liable for all damages resulting from the patent infringement for the Relevant Period, the amount of which is to be determined in separate proceedings; and
- the Defendants and each of them are to bear the legal costs of these proceedings as well as all other costs incurred by the Claimant.

10. Maars request that the Court dismiss the claim, submitting that it does not infringe the claim of the patent because features 1.4 and 1.6 of the claim are not met in the Horizon Products. In any case Maars Holding does not infringe, because its activities are limited to financial activities; it does not perform allegedly infringing activities with the Horizon Products.

11. Furthermore, Maars argue that the patent cannot be infringed as it was never valid and should be revoked. In line with this argumentation, Maars filed a counterclaim for revocation of the patent, arguing that the patent is invalid for the following reasons:
    - Insufficiency of disclosure: no enabling disclosure of further tightening when outward forces are created at the upper legs of the profiles.
    - Lack of novelty over NZ 198562 A ("NZ 562") published on 21 February 1986
    - Lack of novelty over US 3,155,205 ("US 205") published 3 November 1964
    - Lack of Inventive step starting from DE 2452087 ("DE 087) published on 20 May 1976 in combination with US 205 and/or common general knowledge (CGK)
    -

12. Maars thus request that the Court:
    - <u>in the main proceedings</u>: reject City Glass' requests.
    - <u>In the counterclaim</u>: revoke European Patent EP 838 in its entirety.
    - <u>In the main proceedings and counterclaim</u>: order City Glass to pay Maars' legal costs of the main proceedings, the counterclaim proceedings and the related proceedings as well as all other expenses incurred by Maars, plus interest from 14 days after the judgment to be given in these proceedings, or at least from a date to be determined by the Court, if and to the extent that City Glass has not paid these costs before then.

13. By order of the panel of 17 December 2024 City Glass was ordered to provide Maars with security for the legal costs and other expenses incurred and/or to be incurred by Maars in first instance in the amount of EUR 19.000. This amount was deposited by City Glass on the dedicated UPC account.

14. Decision taken at the interim conference include the following (confirmed in an R.105.5 order):

I. The value of the infringement proceeding/action is set at **EUR 250,000.-.**
II. The value of the counterclaim proceedings/action is set at **EUR 250,000.-.**

III. In view of the established facts set out above, the R.190 and R.191 applications (App_18931/2025 and App_18932/202517) are withdrawn and the workflows will be closed (whereto this order shall be uploaded in those workflows as well as in the main actions).

IV. City Glass does not maintain its request for the relief sought at paragraphs 78(c) and (d) of its Statement of Claim, which limitation of claim is granted (R.263.3 RoP).

V. Parties shall submit, within two weeks from today, English translations of German and French exhibits in so far as they want the Court to take these into account and Maars cs shall submit within the same period, as a separate exhibit (e.g. MAR 10A) with the figures 9-11 that are missing in MAR 10 (and that are shown in MAR 16).

VI. In case the parties cannot reach an agreement on legal costs, the parties will submit an estimate of the legal costs that they seek to recover two weeks before the oral hearing, which estimate can be updated 24 hours before the oral hearing.

VII. Parties were given the opportunity to present oral pleadings at the oral hearing for a maximum of 60 minutes each side with a rebuttal of fifteen minutes (maximum). Parties can submit pleading notes, provided these are exchanged at the start of the pleading time to monitor conformity. The pleading notes cannot be uploaded in the CMS but serve as transcript of part of the recordings of the OH only.

VIII. In case parties wish to use slides during the OH, these need to be submitted (by email) 24 hours before the start of the OH.

III.GROUNDS FOR THE DECISION

III.A – SUMMARY AND POINTS AT ISSUE

15. The subject-matter of the proceedings is, on the one hand, the alleged past infringement of the patent and, on the other hand, its alleged invalidity as argued in the counterclaim. Because the patent has expired, only damages are claimed in the main action. The jurisdiction and competence of (this local division of) the UPC is not in dispute. Because the patent expired after the UPCA came into force, the UPC is considered competent to hear this action regarding damages (Art. 3(c) UPCA). The jurisdiction and competence is based on the place of residence of three of the defendants (Art. 31 UPCA, Art. 4 BR and Art. 33.1 (b) UPCA). The competence vis-a-vis Maars France is based on (Art. 31 UPCA and) Art. 8 BR and Art. 33.1(b) UPCA).

16. As both validity and infringement assessments depend on claim construction, on which the parties have diverging opinions, this will be addressed first (in Part III.B) together with a discussion of the patent's general understanding. The skilled person is also defined there. This will be followed by an assessment of validity in section III.C and an assessment of infringement in section III.D. Section III.E will discuss the implications of the decisions for the outcome of the case, including the costs.

17. The Court finds the patent valid but not infringed, applying the claim interpretation established below.

III.B –TEACHING OF THE PATENT AND CLAIM CONSTRUCTION

18. EP 838 pertains to a glazing system. It aims to provide a safe means of securing glass panels while being aesthetically pleasing and facilitating easy installation ([0006]). The claimed glazing system according to the invention comprises male and female aluminium profiles designed to safely and tightly secure glass panels. These profiles feature curved hooking parts, and the male profile is designed to freely pivot about a fulcrum point ("C" in figure 8 of the patent) where it rests on the female profile. The mechanism utilises rubber beading. According to the description [0008] and [0010] rubber beading is forced in (by hand) between the glass and both profiles after the glass panel is placed on the female profile and the male profile is inserted. This action creates outward forces on the upper legs of the profiles, forcing them apart at the top and at the same time, the turning mechanism at the pivotal fulcrum forces the locking system formed by the hooked parts together, thus self-locking the profiles in position. In description [0011] any external forces due to for instance wind or vibrations, are described to further tighten the fastening mechanism of the system to arrest the glass panel in position.

19. City Glass asserts that Maars infringe the patent with its Horizon Products.

23. The parties disagree on the interpretation of certain features of claim 1. The Court of Appeal of the UPC ("CoA") has set out the following principles regarding interpretation of a patent claim according to Art. 69 EPC.[1] The patent claim is not only the starting point, but the decisive basis for determining the protective scope of a European patent. The interpretation of a patent claim does not depend solely on the strict, literal meaning of the wording used (…). Rather, the description and the drawings must always be used as explanatory aids for the interpretation of the patent claim and not only to resolve any ambiguities in the patent claim. However, this does not mean that the patent claim merely serves as a guideline and that its subject-matter also extends to what, after examination of the description and drawings, appears to be the subject-matter for which the patent proprietor seeks protection.
    The CoA also clarified (i) that the principles for interpreting a patent claim apply equally to the assessment of the infringement and to the validity of a European patent and (ii) that a patent must be interpreted from the point of view of the average person skilled in the art (the "skilled person").

24. The parties did not debate or define the skilled person. The Court assumes the skilled person to be a mechanical engineer. For this decision, the interpretation of features 1.4 and 1.6 are relevant.

    Interpretation of feature 1.4
    1.4. said grooved rubber beading being forced in between the glass panel and the profiles (1, 2) and creating outward forces on the upper legs of the profiles (1, 2) forcing them apart,

25. Parties agree that the "grooved rubber beading" as functional elements typically consists of separate pieces of rubber positioned on each side of the glass panel, interacting individually with the glass and the adjacent profile (one piece with the glass and female profile, and another piece with the glass and male profile). In dispute is whether feature 1.4 requires that rubber beading is forced between the glass panel and both profiles, creating outward forces on both sides.

[1] Order CoA UPC, NanoString Technologies -v- 10x Genomics, UPC_CoA_335/2023, App_576355/2023 of 26 February 2024, as rectified by the order of 11 March 2024. See also G1/24, Enlarged Board of Appeal EPO.

26. The claim language of EP 838 refers to "a grooved rubber beading" in the singular. However, the description and figures consistently depict and describe the process of inserting the rubber beading "*from both sides of the glass panel*" (see [0007], Fig.7) or "*between the Glass & Profiles (both sides)*" (in [0008]) after the assembly of the two profiles in figure 6. Figure 7 of EP 838 shows rubber beading being inserted from two distinct sides into the gaps between the glass and the assembled male and female profiles. For the skilled person the wording of the claim and the description thus leave no doubt that the claimed invention requires insertion of the beading between the assembled profiles on both sides of the glass panel after placing the glass panel.

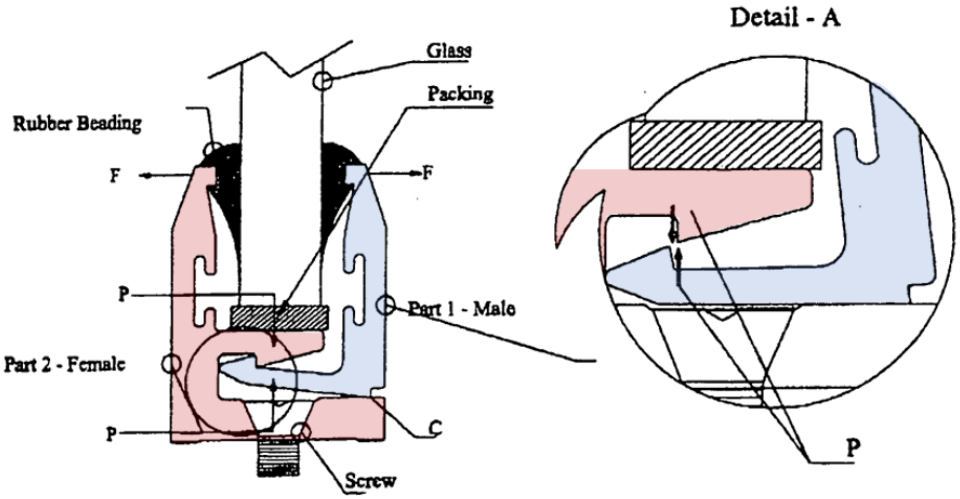
Interpretation of feature 1.6

27. The interpretation of feature 1.6 is crucial in this case, both for infringement and validity.

> *1.6. adapted such that the turning movements provided by said outward forces and external forces at the pivotal fulcrum forces the locking mechanism together to further tighten the locking mechanism in order to arrest the glass panel in position.*

The parties disagree on the interpretation of 'turning movements' and whether these need to be provided by both 'said outward forces' and 'external forces' at the pivotal fulcrum. City Glass asserts that 'turning movement' should be understood to mean a movement, i.e. a motion, and not merely a 'turning moment', i.e. a torque (a force). Maars argue that this phrase requires only a turning *moment*, as mentioned in [0010].

28. The term "turning movements" in the patent refers to the rotational or pivoting motion of the aluminium profiles in the self-locking glazing system of EP 838. This motion occurs at the pivotal fulcrum, referred to as "C" in figure 8 of the patent, replicated below for easy reference with annotations and coloring (blue for the male profile and pink for the female profile) introduced by City Glass (figure 4 in the statement of claim). The male profile rotates clockwise about the fulcrum in response to outward forces on its upper portion ("F" in figure 8), exerting a locking force ("P") in the example shown in figure 8 of EP 838. The effect of the outward force and the turning movement is thus to force the locking mechanism together and to (further) tighten the locking mechanism, arresting the glass panel in position. The skilled person will also appreciate that outward forces can only create a turning movement/rotation of the male profile. The patent teaches that the female profile is screwed/fixed to the underlying surface so that no rotation is possible. The claim (in particular feature 1.6) hence refers to 'turning movements provided by (..) forces (…) at the pivotal fulcrum. Only the male profile is designed to pivot about the fulcrum point, which rests on the (static) female profile of the glazing system (see figure 8).



29. The Court agrees with City Glass that the skilled person will interpret feature 1.6 such that an actual movement is implied by the term 'turning movements'. This follows firstly from the fact that in the description both 'turning movement' and 'turning moment' are mentioned. The skilled person thus understands that the wording 'turning movement' in the claim is a deliberate choice for 'movement' instead of 'moment'. Furthermore, the effect of the turning, namely to 'further tighten' the locking mechanism, also suggests a movement created by the forces rather than merely a torque/moment. The skilled person also understands that, due to the fixed position of the female profile, an outward force on the upper leg of the female profile can create a moment or torque on the (lower part of) the female profile, but this will not result in a movement as required by the claim.

30. According to the claim, turning movements can be created both by 'outward forces' (which clearly refers to feature 1.4, the beads being forced in) and by 'external forces'. This is evident from the word 'and' in feature 1.6. Examples of external forces are mentioned in [0011] to be wind or vibrations and are consequently to be understood as forces that occur after assembly of the glazing system. With City Glass, the Court agrees that the skilled person will appreciate that external forces are incidental and may not occur (hence 'any' before 'external forces' in [0011]). However, in case external forces are present, the skilled person will understand the claim and the teaching of the patent such that also these external forces create a movement that further tightens the locking mechanism of the invention.

31. Thus, the turning movements of feature 1.6 are in fact the leveraging action initiated by the outward forces or external forces on the upper parts of the profiles, causing rotation (of the male profile) about the fulcrum, which translates into the (further) tightening of the curved hooking parts, securing the glass. The presence of this specific mechanism involving turning movements about a pivotal fulcrum in response to also external forces is a key feature of EP 838. The skilled person understands this from [0011] of the patent:

> "[0011] (…) In this arrangement any external forces applied due to conditions like wind or vibrations caused by physical movements whose action may act to dislodge the Glass from its set position only acts to further tighten the fastening mechanism of this system to arrest the Glass panel in position."

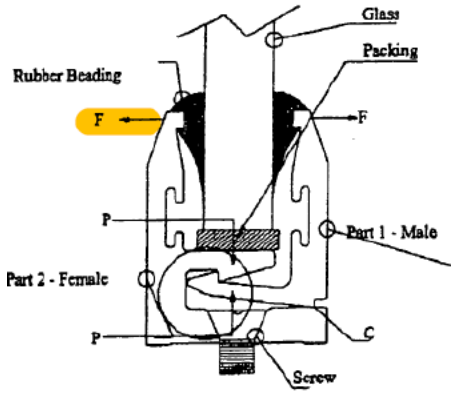
32. Lastly, it is in dispute – in relation to insufficiency of disclosure - whether the external forces of feature 1.6 refer to outward forces only (City Glass' position) or should be understood to include inward forces as well (Maars' position). In the patent specification inward directed forces on the upper legs of the profiles are not mentioned anywhere. On the contrary, the invention,

particularly the turning movements, described in the patent are those created by outward forces only which result in a further tightening of the locking mechanism. The skilled person will thus understand the claim to be restricted to outwardly directed forces.

III.C – VALIDITY

Sufficiency of disclosure

33. The Court understands Maars to argue that there is no enabling disclosure of a self-locking mechanism which tightens further when a leftward directed external force F (marked in yellow in the picture below from Maars' rejoinder/reply in the counterclaim)) acts on the glazing system. Such force would create an inward turning movement of the upper leg of the male profile and possibly an upward movement of the leg of the female profile on which the glass rests. The hooking parts would then tend to move apart rather than further tighten, according to Maars. This also applies to inward forces created on the upper legs of both profiles.



34. As discussed above at the claim construction of feature 1.6., the skilled person understands from the disclosure of the patent specification, that the turning movements of the claim refer to movement of the male profile only because of the way the pivotal fulcrum is designed in combination with the fact that the female profile is fixed to the underlying surface. Rotation of the female profile does not make technical sense because it cannot rotate when an outward (or inward) force is applied and consequently there can be no loosening of the locking mechanism due to such supposed rotation and no insufficiency of disclosure therof.

35. Furthermore, the disclosure of the patent only pertains to outward forces and not to inward forces on the legs of the profiles, as Maars wrongly assume. Below two figures (11 on the left and 12 on the right) are reproduced from City Glass' reply/defence in the counterclaim. In case a leftward external movement (e.g. wind) is applied to the glazing system (hence in the direction of the yellow arrow above and the direction of the small blue arrows in the photograph depicted as figure 12 on the right below), almost all force is applied to the glass because of its size relative to the surface of the profile.

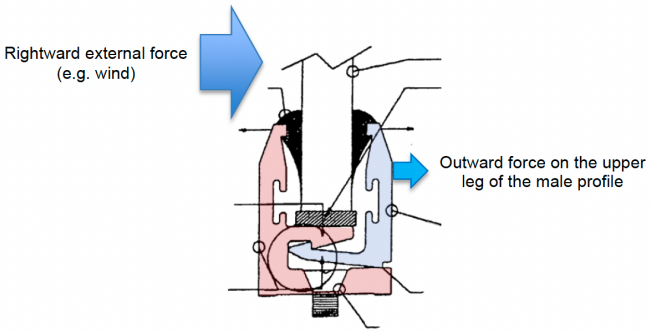


Figure 11: External forces cause tightening of the locking mechanism.

Figure 12: External forces acting on the glass panel.

36. Such force may be transferred partly to the profile, resulting in an outward force on the upper leg of the female profile (which is on the left in the system depicted in figure 12). As discussed, this will not result in any loosening or tightening of the locking mechanism because the female profile is fixed. In case of an outward external force in the other direction (depicted by the blue arrow in City Glass' figure 11 depicted on the left above), this can result in an outward force on the upper leg of the male profile, which force does result in a rotational movement that further tightens the locking system according to the claimed invention.

37. T(his feature of t)he claim, when interpreted correctly considering the description and drawings and not in a way that does not make technical sense, provides the skilled person with all necessary information to implement the invention. The system is only required to tighten under outward forces that result in the specified turning movement about the pivotal fulcrum, not under all conceivable force directions. The skilled person, being a mechanical engineer, would readily understand how to design the profiles to avoid loosening, as the female profile is fixed in the preferred embodiment.

Novelty

- *NZ 564*

38. For the assessment of novelty the Court applies the so-called 'gold standard': a prior art disclosure is novelty destroying in case the skilled person would derive the claimed invention directly and unambiguously using his common general knowledge, from the prior disclosure, whereby implicitly disclosed subject-matter, i.e. matter that is a clear and unambiguous consequence of what is explicitly mentioned, shall also be considered as part of its content.

39. Maars' novelty attack based on NZ 564 fails. Figures 1 and 3 of NZ 564 as annotated by Maars in its statement of defence/counterclaim, as well as figure 3 of NZ 564 annotated by City Glass are depicted below.

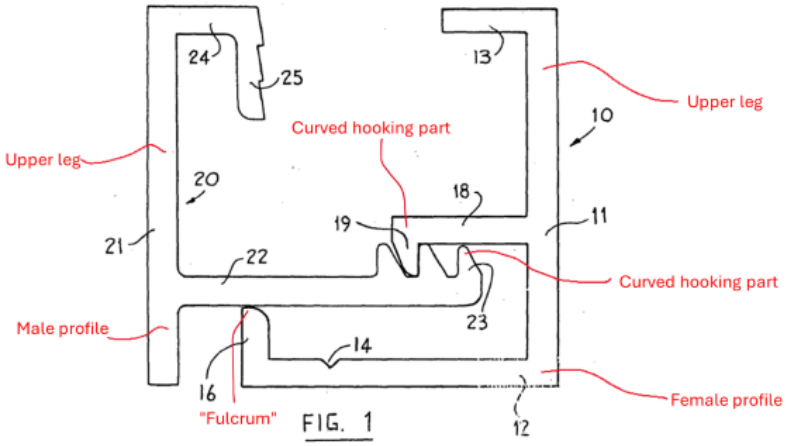


Figure 11: Figure 1 of NZ'562

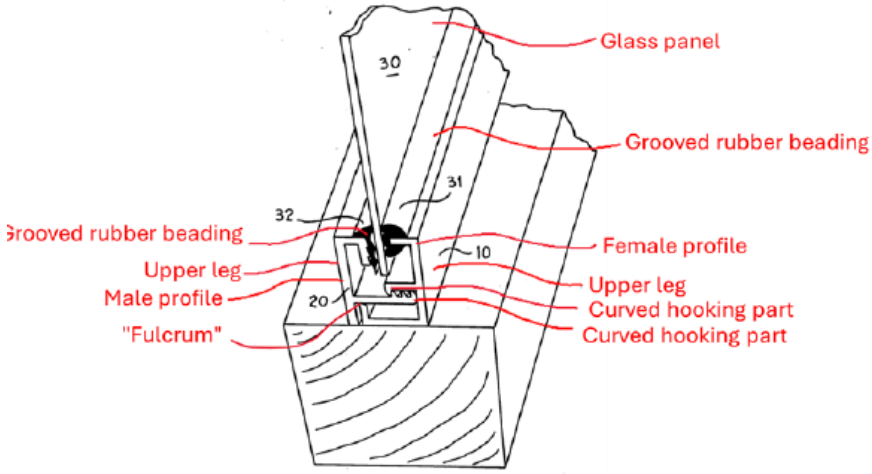


Figure 13: Figure 3 of NZ'562

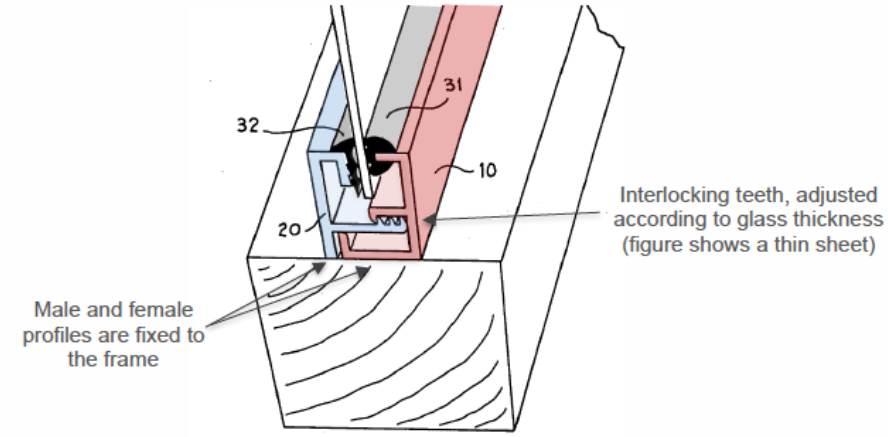


Figure 4: Annotated version of Fig. 3 of NZ 562.

40. In the system of NZ 564 the male profile has a plurality of 'teeth' (23) to accommodate for different thicknesses of the glass. NZ 564 teaches that these are provided in a bevelled fashion so that they can be slid over the tooth 19 of the base section 10 (the female profile) as the glazing rim is assembled (NZ 564, p. 3, l.26-29). This can involve a slight tilting of the two members/limbs (profiles) of the glazing system of NZ 564, which are at (substantially) right angles to each other when installed. The passage from the disclosure of NZ 564 referred to, is quoted below:

'By providing the teeth in the bevelled fashion shown in Figures 1 and 2, it will be noted that the teeth 23 of the locking section 20 can be slid over the tooth 19 of the base section 10 as the glazing trim is assembled.' (NZ 564, p. 3, l.26-29)

41. Whether the upstanding flange 16 of the female profile can be considered to disclose the pivotal fulcrum of the patent, can remain undecided, as features 1.4 and 1.6 of EP 262 are not anticipated for the following reasons. In NZ 564, the rubber beading on the female profile is pre-mounted, and only the rubber beading between the male profile of the glass is forced in after the glass panel is mounted. Feature 1.4 is thus not met. Unlike the teaching of feature 1.6, a turning movement of the male profile by (outward) external forces after assembly of the glazing system disclosed in NZ 564 is not possible because both the male and female profile rest on (whether fixed or not) the frame. Therefore, no rotation of the male profile after assembly is possible.

42. NZ 564 therefore does not anticipate the claimed invention.

- *US 962*

43. Maars also rely on US 962, asserting that this destroys novelty. As can be seen from the (annotated) figures from this prior art document, reproduced below (taken from City Glass' reply/defence to the counterclaim), the profiles of the glazing system disclosed in US 962 do not have curved hooked parts as required by feature 1.5 of the patent. Also feature 1.4 is not met because the rubber beading, referred to as the sealing gasket 6 in US 962, is connected to the system <u>before</u> the mounting of the glass panel on the side of the female profile (the 'inner flange'). Furthermore US 962 does not disclose feature 1.6 completely because no rotation of the male profile around a pivotal fulcrum due to (outward) external forces is mentioned.

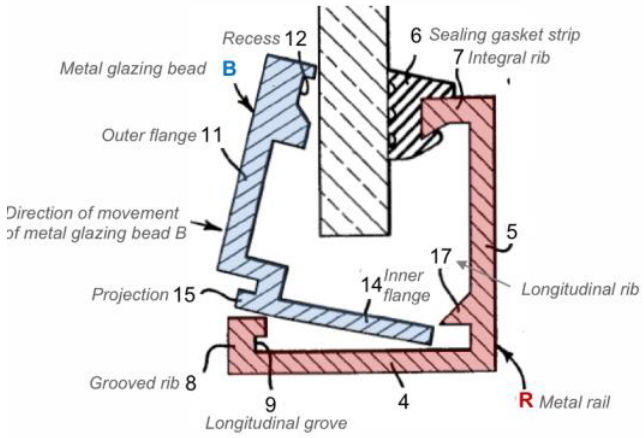


Figure 5: Annotated version of Fig. 2 of US 205.

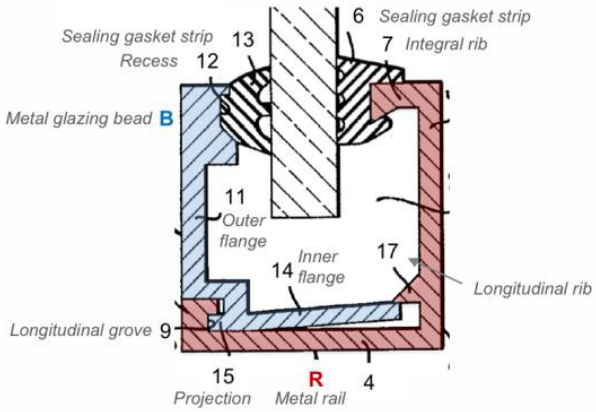


Figure 7: Assembled glazing system of US 205.

44. For the above reasons, also US 962 is not novelty destroying.

<u>Inventive step</u>

- *DE 087*

45. Maars' final validity attack is that the patent is not inventive starting from DE 087 in combination with US 205 and/or common general knowledge (CGK). Maars assert that the only feature of claim one that is not disclosed in DE 087, is feature 1.1 because the profile in DE 087 is made of PVC and not of aluminium as required by feature 1.1 of the claim, which is obvious for the skilled person to change.

46. The annotated figures shown below are reproduced from Maars' SoD/counterclaim (with red letters) and from City Glass' reply/ defence to the counterclaim (with blue coloring on the male profile).

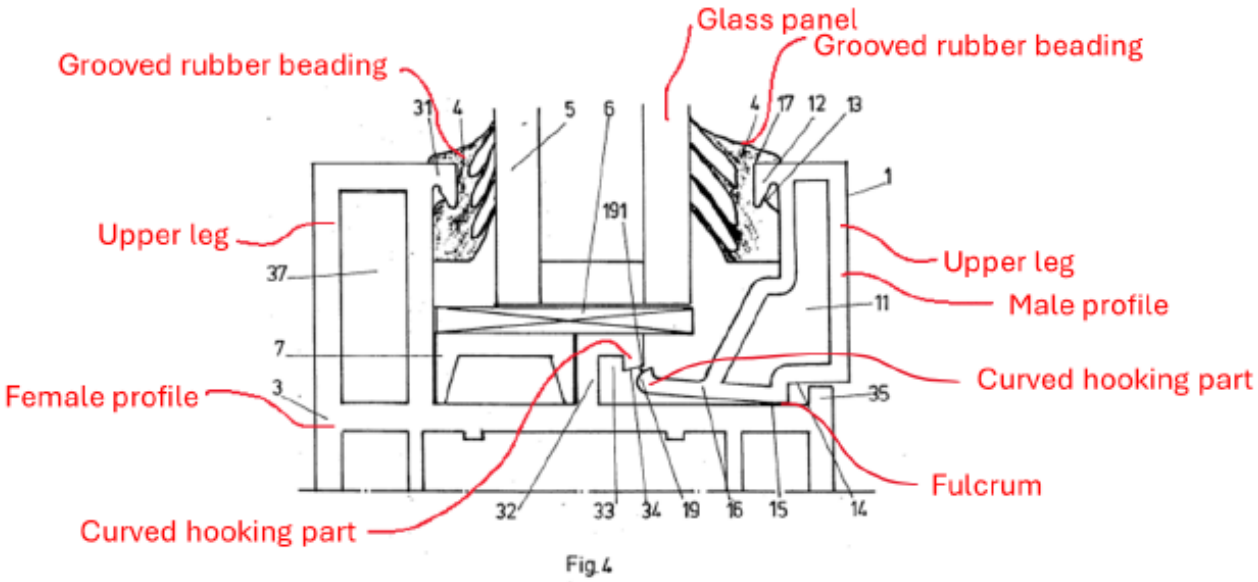


Figure 15: Figure 4 of DE'087

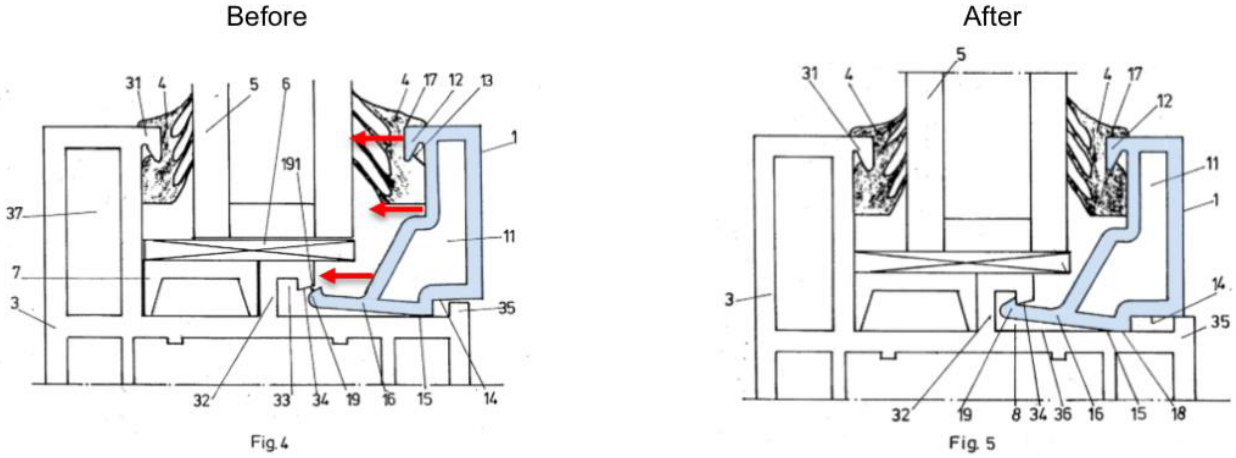


Figure 8: Assembly of glazing system of DE 087.

47. DE 087 does not disclose feature 1.4 according to the claim construction established above. This feature requires insertion of the beading between the assembled profiles on both sides of the glass panel after placing the glass panel. Also, Maars only asserts disclosure of feature 1.4 in DE 087 if this feature were interpreted as including pre-mounting a rubber beading on the profile of both profiles, as is the case in DE 087 (Maars' SoD/counterclaim par. 147).

48. In addition, also this prior art document does not disclose feature 1.6 fully. DE 087 does not disclose, either explicitly or implicitly, a glazing system wherein external forces acting after assembly induce a further pivotal movement about a fulcrum to tighten the locking mechanism. Maars also did not assert that this is disclosed, but advocate a different interpretation of feature 1.6

49. It is not argued, or plausible, how the skilled person would (or even be inclined to) amend the glazing system of DE 087 in such a way to come to the claimed invention, overcoming the distinguishing features 1.1, 1.4 and 1.6., without inventive skills.

Finding on validity

50. The conclusion from the above is that the patent is sufficiently disclosed, novel and inventive and thus valid.

III.D – INFRINGEMENT

51. The allegedly infringing products do not meet features 1.4 and 1.6 as interpreted above. In the Horizon Products one of two rubber strips/beads is pre-mounted on the profile before a glass panel is placed, whereas feature 1.4 requires both rubber beads to be forced in after placing the glass panel between the profiles on the female profile. City Glass does not contest that only the rubber strip on one side is forced in/placed after mounting the glass panel but argues infringement by equivalence of this feature: the technical effect of self-locking of EP 838 is also achieved and in the same way if the rubber beading is forced between the glass panel and the male profile only.

52. It is not necessary to decide on equivalent infringement of feature 1.4 because also feature 1.6 is not present in the Horizon products. Even if City Glass is followed in its statement that a fulcrum is present in the Horizon Products, namely formed by upward projection of the female profile (see the picture below reproduced from City Glass' reply, with the female profile depicted in pink and the male profile shown blue), external forces cannot create a turning movement further tightening the locking mechanism as required by feature 1.6 as interpreted above.

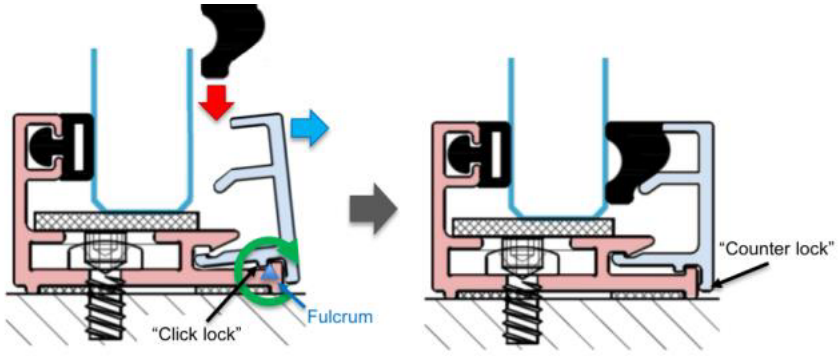
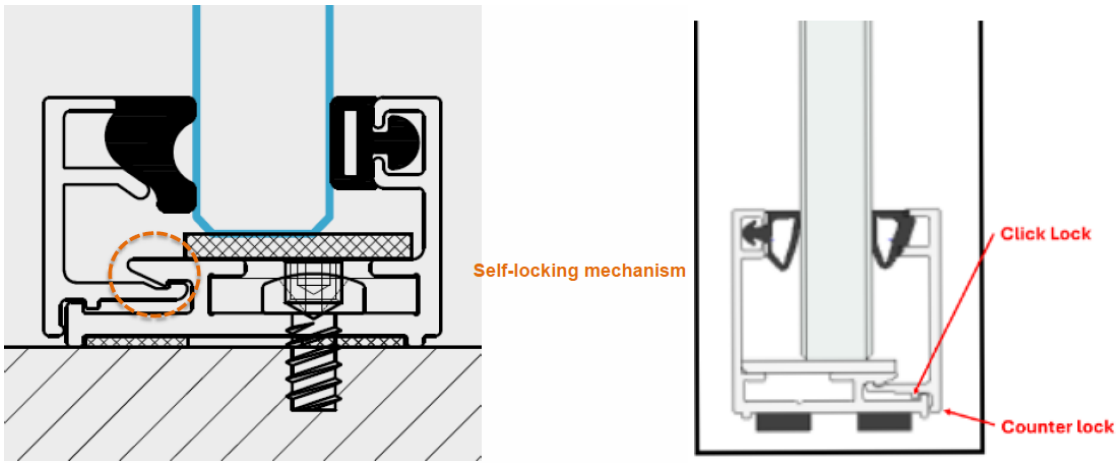


Figure 3: Operation of the pivotal fulcrum in the Horizon System.

The Horizon Products feature both a self-locking mechanism where the curved hooked parts of the female and male profile interlock, as well as what parties refer to as a 'click lock' and counter-lock on the male profile which engage an upright part of the female profile. Both are shown below, the first illustration showing the self-locking mechanism reproduced from the statement of claim and the other one from the statement of defence.



At the time of the assembly of a Horizon Product rotation of the male profile around the pivotal fulcrum is possible. However once the Horizon Product is assembled, further movement and tightening of the self-locking system is not possible because this is prevented by the lower nose of the male profile referred to as 'counter clock' in the illustrations. Therefore feature 1.6 if not met. City Glass has also not argued that this feature is infringed by equivalence, and the Court also does not see how such argument could be successful.

53. Maars therefore do not infringe the patent with their Horizon Products.

III.E – CONCLUSION AND COSTS

54. As the patent is decided to be valid, the counterclaim for revocation will be dismissed. The same applies to the infringement action as the allegedly infringing Horizon Products do not fall within the scope of protection of the patent. With this outcome any other issues in dispute do not need to be addressed. Particularly, given the finding that the trading of the Horizon Products does not infringe the patent, it is unnecessary for the Court to decide on the separate defence raised by Maars Holding B.V. regarding the nature of its activities.

55. By email of 20 June 2025 the parties informed the Court that they agree on the costs as follows:

This email is to confirm that the parties have reached agreement. It has been agreed that if either party is awarded its full costs, it will be entitled to seek recovery of the following, up to and including the Oral Hearing at first instance:

A. €38,000 in legal costs (representing the maximum amount of recoverable representation costs according to the Scale of ceilings for recoverable costs for a claim valued at €250,000); and

B. the respective court fees paid by the party awarded its costs (being €6,600 in respect of City Glass' infringement action, or €11,000 in respect of the Maars Defendants' counterclaim for revocation).

If following the Oral Hearing the Court awards a party only a portion of its costs, that party would be entitled to recover only the relevant proportion of the total recoverable costs under (i) and (ii) above. The agreement is without prejudice to either party's arguments that the other party should not be entitled to recover their costs (or court fee) even if successful.

56. The court will follow this agreement and may decide on the costs now. Separate proceedings on the costs are therefore not necessary.

57. During the oral hearing the parties clarified that the amount of EUR 38,000.- is meant as the combined amount for representation for the claim and the counterclaim. It was also pointed out that, in case one party was successful in only one of the actions, only a portion of the costs should be awarded. The parties also clarified that the outcome of the infringement action is

leading, understandably as the economic focus of the case was on a finding of infringement (of a valid patent).

58. The Court interprets this to mean that, now that Maars are the successful parties in the infringement action, costs will be awarded to Maars. The total amount will be reduced by 50% because Maars were unsuccessful in the counterclaim action. The amount to be awarded to Maars collectively is therefore EUR 19,000.- in legal costs and EUR 5,500 in court fees, totalling EUR 24,500.-.

59. City Glass deposited EUR 19,000 for the payment of legal costs (see 14. above). It seems logical to use this deposit to pay part of these costs. A party that wishes to have the deposit released to Maars for this purpose, may make an application.

60. Maars requests payment of costs '*plus interest from 14 days after the judgment to be given in these proceedings, or at least from a date to be determined by the Court, if and to the extent that City Glass has not paid these costs before then*.' The court finds reason to extend the requested term of two weeks wherein payment should be effected, to three weeks. The request to order the payment of interest in case of late payment is not granted because there is no legal basis for this in the rules and regulations of the UPC. Such interest is governed by the national laws.

IV. DECISION

For all these reasons and after having heard the parties, the Court

In the main infringement claim:

A. Dismisses the orders sought by City Glass;

In the counterclaim for revocation:

B. Dismisses the orders sought by Maars;

In both the infringement action and the counterclaim:

C. Orders City Glass to pay legal costs and court fees incurred by Maars of EUR 24,500,- within three weeks;
D. In as far as necessary, declares this decision on legal costs and court fees immediately enforceable.

INFORMATION ABOUT APPEAL

An appeal against this decision may be lodged at the Court of Appeal, by any party which has been unsuccessful, in whole or in part, in its submissions, within two months of the date of its notification (Art. 73(1) UPCA, R. 220.1(a), 224.1(a) RoP).

INFORMATION ABOUT ENFORCEMENT (ART. 82 UPCA, ART. ART. 37(2) UPCS, R. 118.8, 158.2, 354, 355.4 ROP)

An authentic copy of the enforceable decision or order will be issued by the Deputy-Registrar upon request of the enforcing party, R. 69 RegR.

Brinkman, presiding judge	Edger Frank BRINKMAN Digitally signed by Edger Frank BRINKMAN Date: 2025.08.28 11:57:18 +02'00'
Johansson, legally qualified judge	Stefan Erik Johansson Digitally signed by Stefan Erik Johansson Date: 2025.08.28 13:07:23 +02'00'
Crippa, technically qualified judge	Paolo Ernesto Crippa Autore firma digitale: Paolo Ernesto Crippa Nome distintivo: CN = Paolo Ernesto Crippa C = IT Data: 2025.08.29 12:29:28 +02'00'
Kokke, judge-rapporteur	Margot Elsa KOKKE Digitally signed by Margot Elsa KOKKE Date: 2025.08.28 16:05:42 +02'00'
For the Deputy Registrar	Noua Mohammed Digitally signed by Noua Mohammed Date: 2025.08.28 15:30:52 +02'00'

DETAILS OF THE ORDER/DECISION

ORD_69387/2024 in
ACTION ACT_44624/2024
UPC UPC_CFI_455/2024 (claim) and in
CC_60624/2024 (counterclaim)
UPC_CFI_684/2024