



Appeal n°:

UPC-CoA-582/2025	UPC-CoA-594/2025
UPC-CoA-590/2025	UPC-CoA-595/2025
UPC-CoA-591/2025	UPC-CoA-596/2025
UPC-CoA-592/2025	UPC-CoA-597/2025
UPC-CoA-593/2025	UPC-CoA-602/2025

DECISION
of the Court of Appeal of the Unified Patent Court
concerning EP 3 388 490
issued on 21 October 2026

HEADNOTE

1. A manufacturing method of a publicly used product is made available to the public by use pursuant to Art. 54(2) EPC if, at the relevant date, the person skilled in the art could establish the method without undue burden by analysing the product's composition. There is no support in the EPC for an additional requirement that the skilled person would need particular reasons for analysing the product.
2. Where a publicly available product discloses information which is relevant to the novelty of a claimed manufacturing method, the disclosure must be such that the skilled person can use the claimed method on the basis of their common general knowledge. Reproducibility of features which are not part of the claimed invention is not required.

KEYWORDS

Appeal; claim interpretation; novelty; inventive step; public prior use

APPELLANT IN APPEAL 602/2025, RESPONDENT IN APPEALS 582/2025 AND 590/2025 TO 597/2025
(CLAIMANT AND COUNTERDEFENDANT IN THE PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE)

Agfa NV, Mortsel, Belgium

(hereinafter: “**Agfa**”)

represented by attorney-at-law Daan de Lange and other representatives of the firm of Vossius & Brinkhof

RESPONDENTS IN APPEAL 602/2025, APPELLANTS IN APPEALS 582/2025 AND 590/2025 TO 597/2025
(DEFENDANTS AND COUNTERCLAIMANTS IN THE PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE)

1. **Guccio Gucci S.p.A.**, Florence, Italy;
2. **Marbella Pellami S.p.A.**, Bientina, Italy;
3. **G Commerce Europe S.p.A.**, Scandicci, Italy;
4. **Gucci Logistica S.p.A.**, Scandicci, Italy;
5. **GG Luxury Goods GmbH**, Berlin, Germany;
6. **Gucci France SAS**, Paris, France;
7. **GG France Services SAS**, Paris, France;
8. **Gucci Belgium SA**, Brussels, Belgium; and
9. **Gucci Sweden AB**, Stockholm, Sweden

(hereinafter, jointly, “**Gucci**”)

represented by attorney-at-law Dr. Benjamin Schröer and other representatives of the firm of Hogan Lovells Cadwalader

PATENT AT ISSUE

EP 3 388 490

PANEL AND DECIDING JUDGES

Panel 1a

Klaus Grabinski, President of the Court of Appeal

Peter Blok, legally qualified judge and judge-rapporteur

Emmanuel Gougé, legally qualified judge

Casper Struve, technically qualified judge

Carola Wagner, technically qualified judge

LANGUAGE OF THE PROCEEDINGS

English

DATE OF THE ORAL HEARING

10 September 2026

IMPUGNED DECISION OF THE COURT OF FIRST INSTANCE

- ☐ Decision of the Hamburg Local Division dated 30 April 2025
- ☐ Numbers attributed by the Court of First Instance:
 - UPC_CFI_278/2023
 - CC_309/2024, 313/2024, 315/2024, 316/2024, 318/2024, 319/2024, 320/2024, 321/2024, 323/2024
 - ORD_598576/2023, ORD_68959/2024, ORD_68960/2024, ORD_68961/2024, ORD_68963/2024, ORD_68964/2024, ORD_68965/2024, ORD_68966/2024, ORD_68967/2024, ORD_68968/2024

FACTS AND REQUESTS OF THE PARTIES

Agfa

1. Agfa is a Belgium-based company that is specialized in the development and sale of industrial inkjet technology, such as inks and printers. Agfa is part of the Agfa-Gevaert Group.
2. Agfa is the registered proprietor of European Patent 3 388 490 B1 (“the Patent”) relating to decorating natural leather. The application for the Patent was filed on 14 April 2017. The grant of the Patent was published on 21 July 2021. No opposition was filed against the grant of the Patent. The Patent is in force in Belgium, Germany, Spain, France, the UK, Italy and Sweden.
3. Independent claims 1 and 10 of the Patent read as follows:
 1. A manufacturing method for decorating natural leather with a decorative image including the steps of:
 - applying on a crusted leather (45) a base coat (44) containing a pigment for providing an achromatic colour different from black;
 - inkjet printing a colour image (43) on the base coat (44) using one or more pigmented UV curable inkjet inks;
 - optionally applying a protective top coat (42) on the image (43); and
 - optionally applying a heat pressing or embossing step;wherein the achromatic colour different from black of the base coat and the inkjet printed colour image are used in combination to provide the decorative image.
 10. A decorated natural leather having a decorative image and including, in order,
 - a crusted leather (45);
 - a base coat (44) containing a pigment for providing an achromatic colour different from black;
 - a pigmented UV curable inkjet printed colour image (43);
 - and a protective top coat (42),wherein the chromatic colour or the achromatic colour different from black of the base coat and the inkjet printed colour image are used in combination to provide the decorative image.
4. The parties agree that claim 10 contains an error. The reference to “the chromatic colour” should be deleted.

Gucci

5. Gucci belongs to the French conglomerate Kering, which is the parent company of several luxury brands, including e.g. Gucci, Saint Laurent and Balenciaga.
6. Gucci is active in designing, manufacturing and selling high fashion clothing and accessories, including various leather products on which decorative images are used (the “Attacked Gucci Products”), such as the following mini bag and sneakers:



Padlock mini bag



Rhyton sneaker

The proceedings

7. Agfa lodged an infringement action against Gucci at the Hamburg Local Division, requesting, inter alia, an order prohibiting infringement of the Patent in Belgium, Germany, France, Italy and/or Sweden. Agfa alleged that the Attacked Gucci Products infringe claims 1, 3, 4, 5, 6, 7, 10, 12, 13 and 14 of the Patent. Gucci lodged counterclaims, requesting revocation of the Patent in its entirety.
8. By its decision (“final order”) of 30 April 2025 as rectified by the Order of 2 July 2025 (the “Impugned Decision”), the Hamburg Local Division dismissed both the infringement action and the counterclaims for revocation and ordered Agfa to bear 40% and Gucci to bear 60% of the costs of the proceedings.
9. Agfa as well as Gucci appealed against the Impugned Decision. In its appeal (UPC-CoA-602/2025), Agfa requests that the Court of Appeal set aside the Impugned Decision in the infringement action and grant its requests as specified in the Statement of appeal. Gucci requests – in summary – that the appeal be dismissed and Agfa be ordered to bear the full costs of the first-instance and appeal proceedings. In the appeals by Gucci (UPC-CoA-582/2025 and UPC-CoA-590/2025 to 597/2025), Gucci requests that the Court of Appeal set aside the Impugned Decision and – in summary – revoke the Patent in its entirety and orders Agfa to bear the full costs of the proceedings at both instances. Agfa requests that the Court of Appeal reject the counterclaim for revocation in whole or in part, or, in the alternative, uphold the Patent in amended form in accordance with one of the auxiliary requests 1 to 5.

In addition, the parties made a number of procedural requests regarding the admissibility of evidence and arguments. In the appeal concerning the infringement action (UPC-CoA-602/2025), Gucci requests that its exhibits HL-Appeal 7 and HL-Appeal 8 be admitted. In the appeals relating to the counterclaims for revocation (UPC-CoA-582/2025 and UPC_CoA-590/2025 to 597/2025), Gucci requests that its exhibits HLAR 47a, HLAR 49, HLAR 50, HLAR 50a and HLAR 51 as well as exhibits HL-Appeal 3, HL-Appeal 4, HL-Appeal 5, HL-Appeal 6 and HL-Appeal 6a be admitted by the Court of Appeal. Agfa requests that the Court:

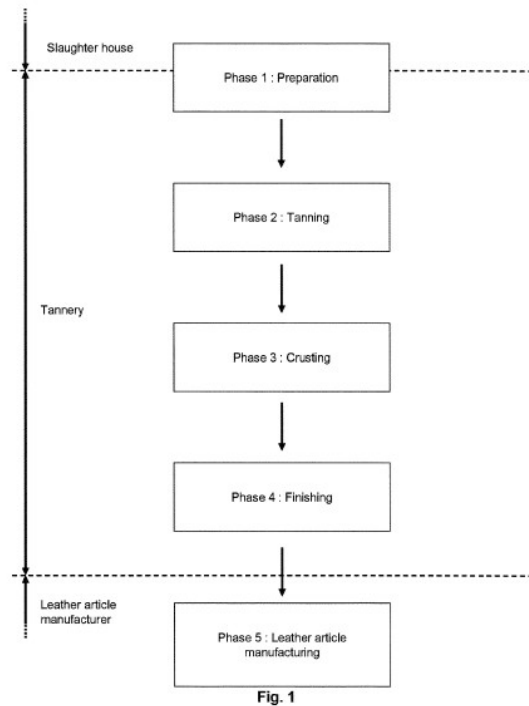
- i) admit into evidence Schoenmakers I (Agfa's exhibit VB51 incl. appendices 1-4);
 - ii) reject the Clayton Report (Gucci's exhibit HL-Appeal 4);
 - iii) reject the physical sample referred to in Gucci's Grounds of Appeal, para. 51;
 - iv) reject Gucci's Exhibit HL-Appeal 6 and exhibit HL-Appeal 6a;
 - v) reject Gucci's request to admit inventive step attacks into the proceedings based on Gucci's exhibit HLAR 7 and the Flora products; and
 - vi) reject Gucci's request to admit exhibits HLAR 47a and HLAR49-HLAR 51 into the proceedings.
- In the event (conditionally) that Gucci's exhibits HLAR 49-HLAR 51 are admitted into the proceedings:
- vii) admit into evidence Schoenmakers II (Agfa's exhibit VB 52).

In addition, Gucci requests that the Court:

- i) disregard Agfa's exhibits VB 51 and VB 52 as late-filed;
- ii) disregard Agfa's new arguments in para. 47 to 50 and para. 115 to 118 of the Statement of Response as late-filed; and
- iii) disregard Agfa's defence of the Patent insofar as it extends beyond the scope of the first-instance requests.

The Patent

10. The Patent relates to the manufacturing of decorated natural leather and leather articles therewith. According to the description of the Patent, the manufacturing of natural leather articles is well-known and can generally be split up into five phases as shown by Figure 1 of the Patent, reproduced below (para. [0002]).



11. Natural leather has been decorated in the past by screen printing. However, screen printing is labour-intensive and a large number of individual screens are required for each colour and for each size of print. This is costly and time-consuming, especially when personalization or customization is desired (para. [0003]).
12. Digital printing technologies on finished leather have been investigated but many solutions on finished leather remain of inferior quality. Inkjet technologies from textile printing employing heat transfer paper have been explored for leather printing. However just like inkjet printing directly onto natural leather, it was found that a process of inkjet printing dye-based images onto a sheet of transfer paper and then transferring the images onto tanned leather by heat resulted in a quality unacceptable for many luxury leather products (para. [0004]).
13. Light fading of dyes can be resolved by using pigmented inks (para. [0005]). Recently, high-quality decorated leather has been obtained by a method of printing "into" tanned leather with pigmented inks (para. [0006]).
14. A high image quality of printed leather is essential for luxury leather articles. In order to enhance colour brilliancy, often a white background is used (para. [0007]). One option is to use white leather (para. [0008]). However, the luxury appearance of a leather article is substantially decreased when a side of the printed white leather is viewable in the leather article or when perforations are present, for example for sewing leather pieces together or for providing aeration in e.g. leather car seats. Furthermore, the use of white leather generally does not help much to reduce colour inconsistencies or surface defects (para. [0009]). Another option for providing a white background is to use white inkjet inks. However, the application of white inkjet ink in amounts sufficient to mask surface defects and colour inconsistencies of the leather resulted in insufficient flexibility of the printed leather showing cracks in the printed image (para. [0010]).

15. Against this background, the problem that the Patent seeks to solve is obtaining a method for manufacturing methods of decorated leather having high image quality and colour consistency, while not sacrificing inkjet printing reliability or physical properties like flexibility.
16. The Court of Appeal will use the following feature breakdown of the claim 1, which the Hamburg Local Division and both parties have also used:
- 1.0 A manufacturing method for decorating natural leather with a decorative image including the steps of:
 - 1.1 applying on a crusted leather (45) a base coat (44)
 - 1.1.1 [the base coat (44)] containing a pigment for providing an achromatic colour different from black;
 - 1.2 inkjet printing a colour image (43) on the base coat (44)
 - 1.2.1 using one or more pigmented UV curable inkjet inks;
 - 1.3 optionally applying a protective top coat (42) on the image (43); and
 - 1.4 optionally applying a heat pressing or embossing step;
 - 1.5 wherein
 - 1.5.1 the achromatic colour different from black of the base coat and
 - 1.5.2 the inkjet printed colour image
 - 1.5.3 are used in combination to provide the decorative image.

GROUND FOR THE DECISION

Procedural issues

Admissibility of exhibits HLAR 47a, HLAR 49, HLAR 50, HLAR 50a, and HLAR 51

17. The Hamburg Local Division declared Gucci's exhibits HLAR 47a, HLAR 49, HLAR 50, HLAR 50a, and HLAR 51 (the "New Exhibits") inadmissible for being late-filed. Agfa's objections against Gucci's resubmission of the New Exhibits in the appeal proceedings must be dismissed.
18. As this Court clarified in the case of *Mammut v. Ortovox* (UPC-CoA-182/2024, order of 25 September 2024), when exercising its discretion in accordance with R. 222.2 RoP, the Court of Appeal is not bound by a preclusion of exhibits or submissions at first instance. Even if an exhibit or submission was rightly not admitted by the Court of First Instance, the Court of Appeal decides at its discretion, considering all circumstances, whether this is to be taken into account in the appeal proceedings. In the present case, the New Exhibits are admissible for the following combination of reasons.
19. Firstly, the late filing of the New Exhibits by Gucci is justified in part by Agfa's own procedural conduct. The New Exhibits contain evidence that, according to Gucci, supports its view that the Patent is not novel in respect of public prior use of a range of products with a "Flora" pattern manufactured by Gucci (the "Flora Products"). More particularly, the evidence is submitted to support Gucci's statement that, in the production of the Flora Products, UV curable inkjet inks within the meaning of claim feature 1.2.1

were used. That Gucci submitted the New Exhibits after its Statement of reply in the revocation proceedings is justified by the fact that Agfa challenged the use of feature 1.2.1 in the production of the Flora Products for the first time in its Statement of rejoinder. Agfa did not dispute this in its Statement of defence. Therefore, there was no need for Gucci to present further evidence earlier in the proceedings.

20. Secondly, the New Exhibits do not concern completely new evidence but supplement or correct the expert report on analyses by AMDIS software, which Gucci submitted with its Statement of rejoinder to the reply to the defence to the application to amend the Patent of 30 September 2024 (Gucci's Exhibit HLAR 47; the "AMDIS Report"). The New Exhibits are therefore relevant to assess the AMDIS Report, which both parties accept is admissible evidence. Moreover, the New Exhibits are in part a response to the express invitation by the judge-rapporteur of the Hamburg Local Division to the parties to comment in writing on *"the question raised by [Agfa] whether the signal presented by [Gucci] could solely be traced to a [photoinitiator] or to other components as well"* (Order of the Hamburg Local Division of 20 December 2024). In addition, exhibits HLAR 49, 50 and 51, which Gucci filed on 24 January 2025, are a response to comments presented by Agfa in its Statement of 13 December 2024. In this statement, Agfa argued, inter alia, that the AMDIS Report is incomplete because Gucci failed to provide evidence that it used a version of the AMDIS software, library of reference compounds and testing equipment that was actually available before the priority date. The corrected versions of the AMDIS Report and exhibit HLAR 50, which Gucci filed as Exhibits HLAR 47a and 50a with a Statement of 7 February 2025, are a response to an expert report submitted by Agfa with its statement of 24 January 2025, in which Prof. Schoenmakers inter alia pointed to some errors in the AMDIS Report and exhibit HLAR 50 (first expert report by Prof. Schoenmakers, Exhibit VB 51). This underscores that the New Exhibits are relevant to the proper assessment of the AMDIS Report.
21. Thirdly, Agfa has had sufficient opportunity to respond to the New Exhibits. Agfa discussed the New Exhibits in the Statement of response in the present appeal proceedings and at the oral hearing before the Court of Appeal. In addition, Agfa discussed them in the first instance proceedings. It filed an expert report to comment on Gucci's Exhibits HLAR 49, 50 and 51 (second report by Prof. Schoenmakers; Agfa's Exhibit VB 52). The Hamburg Local Division declared this report inadmissible. However, in the interest of equality of arms, the Court of Appeal will admit it. For the same reason, and as requested by Agfa, the Court of Appeal will also admit the first expert report by Prof. Schoenmakers (Agfa's Exhibit VB 51), which Agfa submitted in response to the AMDIS Report. Gucci's objection to the admissibility of the Schoenmakers reports will therefore be dismissed.

Admissibility of the Clayton Report

22. The report by Dr. Terrill Clayton (Gucci's exhibit HL Appeal 4; hereinafter: the "Clayton Report"), which Gucci filed with the Grounds of appeal, is admissible. At the oral hearing before the Court of Appeal, Agfa expressly withdrew its objections against the submission, and there is no reason for the Court of Appeal to disregard it ex officio.

Other admissibility issues

23. It is not necessary to rule on Agfa's objections to the admissibility of a leather sample submitted by Gucci, a witness statement of Mr. Emanuele Vanni (Exhibits HL-Appeal 6 and HL-Appeal 6a), and Gucci's inventive step challenges in relation to claim 1 starting from US patent application 7 891 799 (Gucci's exhibit HLAR 7) or the Flora Products. These exhibits and arguments are not relevant to the decision. Gucci's further objections will be discussed below.

Claim construction

Principles

24. The principles applicable to claim construction have been set out by this Court in its final order in NanoString v 10x Genomics (UPC_CoA_335/2023 of 26 February 2024, as rectified). The patent claim is to be interpreted from the point of view of a person skilled in the art. The patent claim is not only the starting point, but the decisive basis for determining the protective scope of a European patent under Art. 69 EPC in conjunction with the Protocol on its interpretation. 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. In applying these principles, the aim is to combine adequate protection for the patent proprietor with sufficient legal certainty for third parties.

Person skilled in the art

25. The Hamburg Local Division defined the person skilled in the art as an engineer in the field of printing technology specialized in the preparation and the processing of decorated leather articles, and experienced in the application of printing methods available for printing on leather. This definition is in accordance with the submissions by the parties and has not been challenged. The Court of Appeal adopts it as well.

Feature 1.5.1: the [...] colour [...] of the base coat

26. Claim 1 requires not only that the base coat contain a pigment for providing an achromatic colour different from black (claim feature 1.1.1), but also that the base coat have this colour. This follows from the wording of claim feature 1.5.1, which refers to "*the achromatic colour different from black of the base coat*". The wording of feature 1.5.1 further makes clear that this colour of the base coat and the inkjet printed colour image are used in combination to provide the decorative image. This further supports the view that the base coat must have an achromatic colour different from black. This interpretation is also confirmed by the description, which summarizes the invention as "*using an achromatic colour different from black in a base coat (44) on a crusted leather (45) and combining it with a colour image (43) inkjet printed on the base coat for providing a decorative image*" (para. [0013]).
27. As both parties and the Hamburg Local Division recognized, it follows that it is not sufficient that the base coat contains a pigment for an achromatic colour different from black. This is because the base

coat may not have an achromatic colour and feature 1.5.1 may not be met, if the base coat contains a relatively large amount of a chromatic pigment in addition to the achromatic pigment.

28. It also means, conversely, that the fact that a base coat contains a chromatic pigment does not exclude that feature 1.5.1 is realized. This is because the base coat may have an achromatic colour different from black if it contains, in addition to the chromatic pigment, a relatively large amount of achromatic pigment. That such embodiments combining chromatic and achromatic pigments are within the scope of the claims, is confirmed by paragraph [0029] of the description. It expressly presents a base coat containing both a pigment for providing a chromatic colour and a pigment for providing an achromatic colour different from black as an “aspect of the invention”. In addition, paragraphs [0170] to [0178] of the Patent describe an Example 3, in which a minor part of the white pigment used in Example 2 is replaced by a brown pigment. As a result, the base coat of Example 3 contains a pigment for providing a chromatic colour in addition to a relatively large amount of pigment for providing an achromatic colour different from black. This example is presented as a method “according to the invention”, i.e. as an embodiment of the claimed method (para. [0170]).
29. The interpretation of feature 1.5.1 which includes a base coat containing a combination of chromatic and achromatic pigments is confirmed by the function of the feature in the context of the teaching of the Patent. The Patent teaches that the use of a base coat having an achromatic colour different from black ensures a good masking capability, flexibility, and colour brilliancy (para. [0013]). It expressly states that these qualities were achieved not only with the base coat containing merely an achromatic pigment according to Example 2 (para. [0168] and [0169]), but also with the combination of achromatic and chromatic pigments of Example 3 (para. [00177] and [0178]).
30. This interpretation is not called into question by the fact that, in the examination procedure, claim 1 of the Patent was amended as follows to overcome a novelty challenge on the basis of a document disclosing a chromatic-coloured base coat (US 2010/233441 A1):

Claim 1. A manufacturing method for decorating natural leather with a decorative image including the steps of:

- applying on a crusted leather (45) a base coat (44) containing a pigment for providing ~~a chromatic colour or an~~ achromatic colour different from black;
- inkjet printing a colour image (43) on the base coat (44) using one or more pigmented UV curable inkjet inks;
- optionally applying a protective top coat (42) on the image (43); and
- optionally applying a heat pressing or embossing step;

wherein ~~the chromatic colour or the~~ achromatic colour different from black of the base coat and the inkjet printed colour image are used in combination to provide the decorative image.

It can remain undecided whether such amendments are relevant to the interpretation of patent claims. Even if they were, the amendment in the present case does not support Gucci’s interpretation of claim 1, which excludes a base coat containing a pigment for providing a chromatic colour. As observed above, a base coat may contain a pigment for providing a chromatic colour and still have an achromatic colour different from black if it contains, in addition to the pigment for providing a chromatic colour, a

relatively large amount of pigment for providing an achromatic colour different from black. Therefore, a document disclosing a chromatic-coloured based coat, such as US 2010/233441 A1, does not affect the novelty of claim 1 as amended. In contrast, the unamended claim was not novel, because it encompassed a base coat having a chromatic colour.

31. For the same reasons, Gucci's argument that paragraph [0029] and Example 3 must be disregarded because Agfa should have removed them from the description following the amendment of the claim, cannot succeed. As a general rule, in case of claim amendments, the entire patent description which remains unamended may be used as an explanatory aid for the interpretation of a patent claim (UPC-CoA-678/2025, decision of 28 August 2026, HUROM v. NUC and Warmcook, para. 52). In addition, Agfa did amend the description by changing paragraph [0022], which presents a base coat having a red colour, into a "reference aspect of the invention" instead of an "aspect of the invention". Deletion or amendment of paragraph [0029] was not required, since this paragraph does not disclose a base coat having a chromatic colour, but merely a base coat containing a pigment for providing a chromatic colour in addition to a pigment for providing an achromatic colour different from black.
32. The same applies to Example 3. In relation to this example, paragraph [0170] states that "the base coat contains a pigment providing a chromatic colour to the base coat". When read in isolation, this could indicate that the base coat has a chromatic colour. However, the sentence must be interpreted in the light of the teaching of the Patent as a whole. Against this background, it is clear to the person skilled in the art that the sentence refers to the base coat containing a pigment *for* providing a chromatic colour, which does not necessarily result in the base coat having a chromatic colour. This is because the same paragraph presents the example as the illustration of a method "according to the invention" and the subsequent paragraph [0171] explains that only a minor part of the pigment for providing an achromatic colour of Example 2 (titanium dioxide) is replaced by a brown pigment.

Feature 1.5.1: an achromatic colour

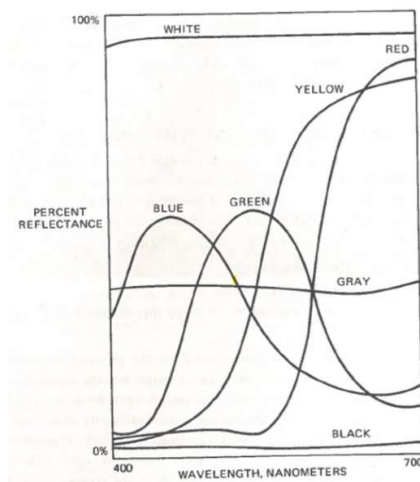
33. Feature 1.5.1 requires that the base coat has "an achromatic colour" different from black. Paragraph [0021] of the description defines the concept of "an achromatic colour" and the opposite "chromatic colour" as follows:

A chromatic colour is any colour in which one particular wavelength or hue predominates. For example, blue and green are chromatic colours, while white, grey, and black are achromatic colours, as they have no dominant hue, meaning that all wavelengths are present in approximately equal amounts within those colours.

The claim feature must be interpreted accordingly, since the description must be used to interpret the claims.

34. This definition of the distinction between achromatic and chromatic colours is also in accordance with the common general knowledge of the person skilled in the art. In this context, Gucci refers to a chapter in the handbook by Richard Hunter, which Agfa submitted as proof of the common general knowledge (Agfa's Exhibit VB 37; hereinafter: the "Hunter Handbook"). The Hunter Handbook visualises

the distinction by the following graph, showing on the X-scale the wavelengths in the visible range of 400 to 700 nm and on the Y-scale the percentage of reflection:



For the achromatic colours (white, grey, and black) the curves exhibit a “characteristically uniform spectral response throughout the spectrum”. The curves for the chromatic colours (blue, green, yellow and red) “show absorption in the areas of the spectrum not associated with the hue as we see it”. In other words, in those curves, there is a pronounced peak of the reflectance rate at a particular wavelength.

35. In addition, patent claim features must always be interpreted in the light of the claim as a whole (UPC-CoA-1/2024, order of 13 May 2024, Vusion v. Hanshow). The feature “achromatic colour” must therefore be construed in the context of a method for decorating leather. Agfa demonstrated that the average skilled person would know, on the basis of their common general knowledge that, in such a context, a perfectly flat spectral response cannot be realized. Because of the absorption by the material, there will be a slope in the region of 400 to 450 nm and a slight raise in the region of 600 to 700 nm. To illustrate, Agfa refers to the spectrum for white interior paint (reference number 4) in the following Figure 10.1 of the Hunter Handbook:

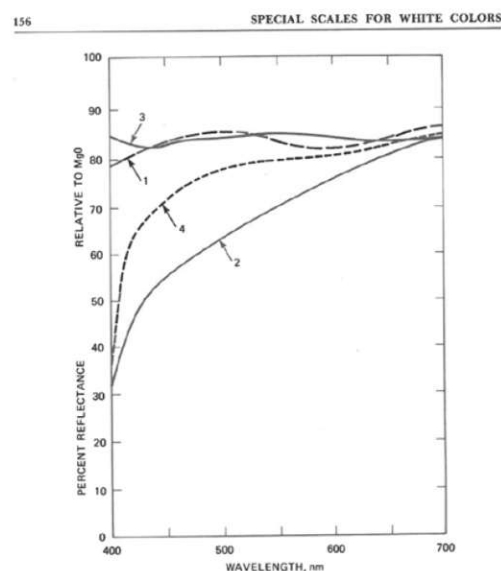


Figure 10.1. Spectrophotometric curves for four white surfaces: (1) cotton broadcloth; (2) newsprint paper; (3) porcelain enamel; (4) interior paint.

The person skilled in the art will take this into account when establishing whether, in the colour of a base coat on a crusted leather, a particular wavelength predominates or all wavelengths are present in approximately equal amounts.

36. Gucci contests that the Hunter Handbook represents the common general knowledge in this respect, referring to the fact that the textbook is not referred to in the Patent and that it was published 42 years before the application date of the Patent. However, a reference in the Patent is not required for a publication to constitute common general knowledge relevant to the interpretation of the claims of the Patent. The publication date does not exclude the Hunter Handbook from the common general knowledge either. There are no indications that, at the application date of the Patent, the quoted part of the Hunter Handbook had become outdated due to the further developments of the common general knowledge.
37. Contrary to the opinion of Gucci, the fact that the Hunter Handbook presents Figure 10.1 in the context of the discussion of white colours instead of achromatic colours does not mean that the reference is “besides the point”. The reference supports the conclusion that it was common general knowledge that the material on which a colour is applied has an effect on the reflectance spectrum and that the person skilled in the art would not expect a perfectly flat spectrum in the context of a method for decorating leather.
38. Furthermore, the person skilled in the art will consider that the description states that a base coat may have a pigment for providing a chromatic colour in addition to a pigment for providing an achromatic colour different from black (see paragraphs 28 and 29 above). The person skilled in the art will know that, also for this reason, the spectral response of the base coat need not be perfectly flat. This is confirmed by the fact that the description presents the use of a base coat with an “off-white”, a “pale yellow”, and a “clay” colour as embodiments of the claimed invention (para. [0029] and [173]). The person skilled in the art will know that the spectral response of such colours will not be perfectly flat. The description therefore teaches the person skilled in the art that “an achromatic colour different from black” is a rather broad concept and that the requirements that there is no dominant hue and that all wavelengths are present in approximately equal amounts must not be applied restrictively.
39. The interpretation is further confirmed by the fact that the description of the Patent emphasizes that leather is a “luxury product” (para. [0007], [0009], [0030] and [0042]). This context speaks against an interpretation which limits the scope to perfectly achromatic colours having a perfectly flat spectrum. It is not contested that a white colour having a perfectly flat spectrum results in a very “cold white” which is uncommon for luxury goods, and that “warmer whites” are generally used for such products. It is common ground that the reflectance spectra for warmer whites will exhibit a somewhat higher reflectance percentage at particular wavelengths compared to the other wavelengths, although not the pronounced peak which is characteristic for a chromatic colour.
40. It follows that the Hamburg Local Division erred in concluding that embodiments in which the base coat contains a combination of chromatic and achromatic pigments which provide an off-white colour is not within the scope of the claims. The conclusion is based on the assumption that such embodiments have fallen out of the scope of claim 1 as a consequence of the amendment of the claim in the examination proceedings. This assumption is incorrect for the reasons given above in paragraphs 30 and 31.

41. At the same time, the Hamburg Local Division was right to dismiss the definition presented by Gucci, under which a colour is achromatic only if the colour difference with a theoretically perfect achromatic colour is less than 1,0 using the ΔE_{94} metric. ΔE_{94} is a metric for understanding how the human eye perceives colour differences. For a $\Delta E_{94} \leq 1.0$, no colour difference is perceptible by human eyes. However, as the Court of Appeal noted above, an achromatic colour within the meaning of the Patent is not restricted to a theoretically perfect achromatic colour and colours which, to the human eye, look the same as theoretically perfect achromatic colours. This assessment is not altered by the fact that the description of the Patent refers to the ΔE_{94} metric in paragraph [0027]. The description mentions the metric in the context of establishing whether the surface of the leather and the decorated image have a similar colour. It does not teach that the concept of an achromatic colour must be reduced to colours that the human eye perceives as identical to a theoretically perfect achromatic colour.
42. Admittedly, the definition of an achromatic colour in terms of approximately equal wavelengths is not as precise as the definition presented by Gucci. However, the interest of legal certainty is not the only factor that determines the interpretation of a patent claim. The interpretation should rather combine a reasonable degree of legal certainty with a fair protection for the patentee. In the present case, restricting the interpretation to a colour which the human eye perceives as identical to a perfectly achromatic colour does not ensure a fair balance of these interests, since it excludes many colours with which the advantages of the claimed invention can be realised and restricts it to a theoretical value that is impossible – or, at least, very difficult – to realise in the context of a method for decorating natural leather. In contrast, the definition in terms of approximately equal wavelengths offers a fair protection to the patentee and a reasonable degree of certainty, taking into account the other objective factors the description and the common general knowledge offer to determine whether a colour is achromatic within the meaning of the Patent.

Claim 5: polyfunctional monomers or oligomers

43. Claim 5 is dependent on claim 1 and includes the additional feature that the UV curable ink contains polyfunctional monomers or oligomers in a concentration of 1 to 20 wt% of the total weight of the UV curable ink.
44. Claim 5 must be interpreted as requiring that the claimed concentration range applies to any polyfunctional component, irrespective of whether it is a monomer or oligomer. The amounts of polyfunctional monomers and polyfunctional oligomers will therefore have to be summed up to determine whether the feature is realized. Contrary to the opinion of Gucci, this does not mean that the word “or” is replaced by “and”. If claim 5 had used the word “and”, this would have indicated that inks containing only polyfunctional monomers or only polyfunctional oligomers would not be covered, whereas the current wording encompasses such embodiments.
45. This interpretation is confirmed by the description. Paragraph [0033] teaches that it is preferred that polyfunctional monomers and oligomers are used, rather than monofunctional monomers and oligomers, because by including polyfunctional components, after UV curing, a cross-linked polymeric network is obtained that improves scratch resistance. In addition, paragraph [0076] states that the upper limit of the concentration range of polyfunctional monomers and oligomers provides good

scratch resistance without impairing flexibility. It will therefore be apparent to the person skilled in the art that polyfunctional monomers and polyfunctional oligomers perform a common role as cross-linkers between polymer chains. Accordingly, if the UV curable ink contains a combination of polyfunctional monomers and polyfunctional oligomers, the combined concentration of these components must be within the claimed range. In contrast, a reading of the claim which would require an upper limit for monomers, while no restriction is put on oligomers, or vice versa, would make no technical sense, since both types of polyfunctional components are taught to have the same effect on flexibility.

46. This interpretation is not called into question by the Table 12 of the Patent, reproduced below.

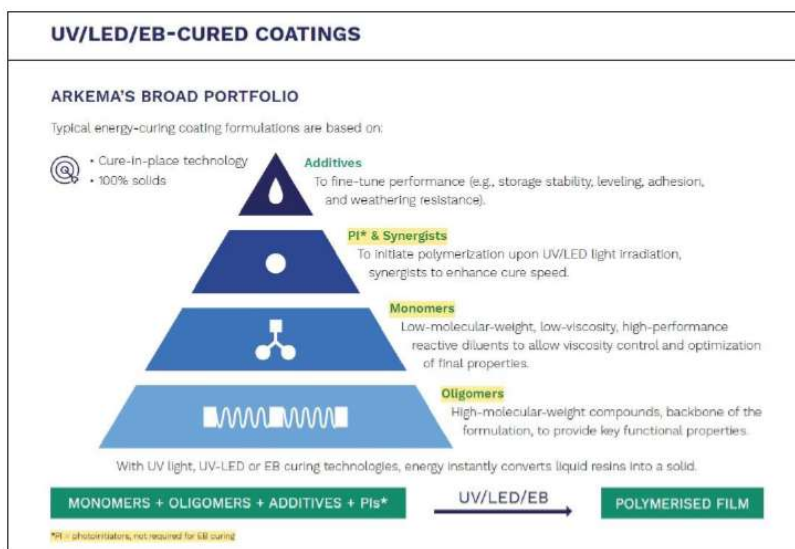
Table 12

wt% of :	C	Light C	M	Light M	Y	K
PB15:4	2.50	0.62	---	---	---	0.60
MP1	---	---	4.00	1.00	---	---
MP2	---	---	---	---	---	0.30
SYN	---	---	0.08	0.02	---	0.01
PY150	---	---	---	---	2.45	---
PB7	---	---	---	---	---	1.60
E7701	---	---	4.00	1.00	1.63	---
S35000	2.50	0.62	---	---	---	2.50
IBOA	18.95	18.95	18.95	18.95	18.95	18.95
VCL	9.90	7.50	7.50	9.70	10.00	9.50
PEA	16.35	20.00	12.00	25.23	17.25	16.15
THFFA	14.12	13.35	15.13	5.88	13.74	12.47
IDA	5.00	5.00	5.00	5.00	5.00	5.00
DPGDA	10.47	7.11	18.33	9.35	10.79	10.48
CN963B80	4.00	7.50	---	4.50	4.00	3.00
ITX	2.00	0.50	2.95	0.50	2.00	5.00
TPO	2.95	9.95	2.95	9.95	2.95	2.95
BAPO	2.25	---	3.50	---	2.25	2.00
CN3755	7.50	7.50	4.00	7.50	7.50	8.00
INHIB	0.16	0.04	0.27	0.07	0.14	0.15

The Table discloses the weight percentages of the components of a UV curable inkjet ink set. It indicates that the inks contain the polyfunctional monomer DPGDA and the polyfunctional oligomer CN963B80. The sum of the weight percentages of these components is within the claimed range.

47. Contrary to the opinion of Gucci, the person skilled in the art would not consider the acrylated amine CN3755, which is also listed in Table 12, to be a polyfunctional oligomer within the meaning of claim 5. That is because the Patent makes a clear distinction between polymerizable compounds and photoinitiators (para. [0073]). The polyfunctional monomers and oligomers are presented as the polymerizable compounds and are taught to be present within the range of claim 5 (para. [0074] to [0076]). In contrast, the photoinitiators and co-initiators are described in separate paragraphs (para. [0077] to [0081]). A specific weight percentage limit is provided for this category of compounds. Paragraph [0080] of the Patent expressly teaches using amine compounds, such as acrylated amines, as a synergist in the interaction with the photoinitiators. In other words, the amine compounds are taught to be co-initiators. Therefore, the person skilled in the art would be aware that amine compounds such as CN3755 perform a different function to polyfunctional components in the context of the claimed invention. Accordingly, they would know that the weight percentage of the amine compounds is not relevant for the concentration range of claim 5.

48. That the person skilled in the art would perceive synergists, such as CN3755, to be a category of compounds distinct from monomers and oligomers is further confirmed by a brochure of the producer of CN3755 (Agfa's Exhibit VB-R 18). The brochure presents these components of coatings in separate categories.



Novelty of claim 1

Principles

49. According to Art. 54(1) EPC, an invention is considered new if it does not form part of the state of the art. A technical teaching does not form part of the state of the art if it differs in at least one of its known features from what is already known in the state of the art. Only that which the skilled person, using his common general knowledge at the relevant filing or priority date, would derive directly and unambiguously from a single piece of prior art is considered to be anticipated thereby (cf. UPC_CoA_182/2024, order of 25 September 2024, Mammut v Ortovox; UPC_CoA_382/2024, order of 14 February 2025, Abbott v Sibio).
50. The state of the art comprises everything made available to the public, including by use, before the date of filing the patent application, or, as the case may be, the priority date (Art. 54(2) EPC). A manufacturing method of a publicly used product is made available to the public by use pursuant to Art. 54(2) EPC if, at the application date, the person skilled in the art could establish the method without undue burden by analysing the product's composition. Contrary to the opinion of Agfa, there is no support in the EPC for an additional requirement that the skilled person would need particular reasons for analysing the product.
51. Where a publicly available product discloses information which is relevant to the novelty of a claimed manufacturing method, the disclosure must be such that the skilled person can use the claimed method on the basis of their common general knowledge. Reproducibility of features which are not part of the claimed invention is not required.

Public availability

52. The subject matter of claim 1 of the Patent is not novel in view of the method by which Gucci manufactured the Flora Products, in particular the wallet depicted below (the “Flora Wallet”):

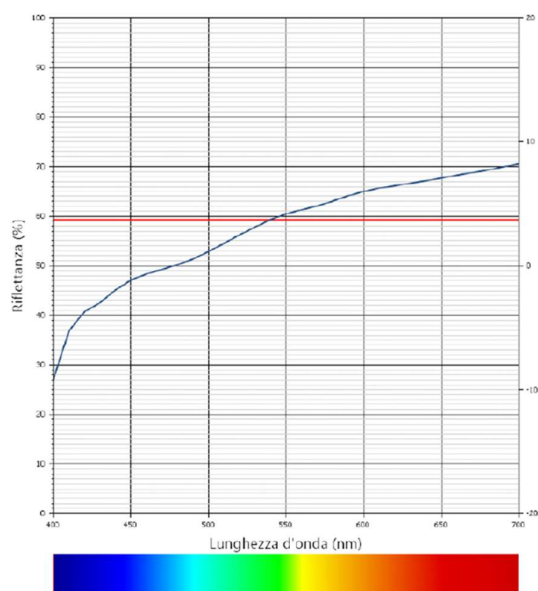


53. The Hamburg Local Division found that the Flora Products were available to the public before the application date of the Patent. The Court of Appeal concurs with those findings. On appeal, Agfa maintains that the availability to the public must be established for each individual product and that, therefore, the availability of the Flora Wallet does not constitute evidence of the availability of other Flora Products, such as the loafers. That is correct but, as established by the Hamburg Local Division, Gucci demonstrated the public availability of the Flora Wallet that it subjected to all the tests discussed below. That is sufficient, since the claimed subject matter is not novel if a single product which directly and unambiguously discloses all claim features was publicly available.

Feature 1.5.1 (colour of the base coat)

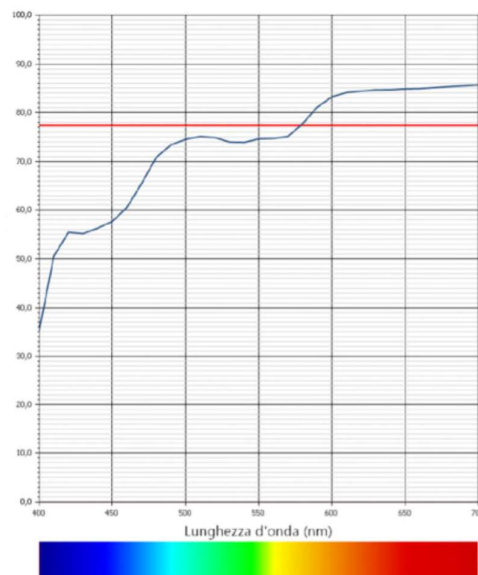
54. The Hamburg Local Division erred in finding that Gucci failed to demonstrate that, in the Flora Wallet, the base coat has an achromatic colour different from black. That finding is based on a construction of claim 1 which excludes a base coat containing a combination of chromatic and achromatic pigments providing an off-white colour. This claim construction is flawed for the reasons given above in paragraph 40. The fact that the base coat has an ivory colour therefore does not exclude that the method by which the Flora Products were manufactured is covered by claim 1 of the Patent. On the contrary, the ivory colour indicates that the base coat has an achromatic colour, since the Patent expressly presents a method in which an “off-white” coloured base coat is used as an “aspect of the invention” and a method “according to the invention” (paragraphs [0029], [0170] and [0173] of the Patent.

55. In addition, Gucci submitted the following reflectance spectrum of the Flora Wallet.



This spectrum does not show the pronounced peak at a particular wavelength that is characteristic of a chromatic colour (see above para. 34).

56. Furthermore, Gucci compared the colour and the reflectance spectra of the base coat of the Flora Products with that of the Attacked Gucci Products, which Agfa itself considers as having an achromatic colour. To illustrate, the reflectance spectrum of the base coat of one of the Attacked Gucci Products (the Pikarar Padlock mini bag) is reproduced below:



Agfa did not dispute that if the base coat of the Attacked Gucci Products has an achromatic colour, the same must be true of the base coat of the Flora Products. In the absence of any counterevidence, these indications are sufficient to prove the presence of an achromatic colour.

Feature 1.2.1 (use of UV curable inkjet ink)

57. Since the Hamburg Local Division concluded that the base coat of the Flora Products was not achromatic, it did not determine whether the Flora Products disclose the other features of claim 1. Agfa only contests the disclosure of feature 1.2.1, requiring the use of inkjet inks that are both UV curable and pigmented.
58. The Court of Appeal finds that Gucci demonstrated that UV curable inkjet inks were used in the production of the Flora Wallet and that the person skilled in the art could directly and unambiguously detect such use by analysing the Flora Wallet.
59. It is not in dispute that the use of UV curable inkjet inks can be established by detecting the presence of a photoinitiator. Agfa's statement that the person skilled in the art had no reason to determine the presence of photoinitiators in the Flora Products is irrelevant (see above paragraph 50).
60. By means of the report by Dr. Clayton (Exhibit HL Appeal 4), Gucci demonstrated that photoinitiators can be detected in the Flora Wallet. Dr. Clayton examined a sample of the Flora Wallet by microscopy analysis, infrared spectroscopy, gas chromatography and mass spectrometry. By means of these tests he detected the UV photoinitiator DETX (2,4-diethylthioxanthone) in the printed sample and on this basis concluded that a UV curable inkjet ink formulation was used.
61. The fact that Dr. Clayton is an expert in his field does not cast doubt on the conclusion that the person skilled in the art could detect the use of DETX. Gucci demonstrated that the techniques used by Dr. Clayton were common general knowledge of the person skilled in the art at the application date of the Patent. It referred to the textbook by Skoog and Leary (Gucci's exhibit HLAR 36), that aims to introduce students of engineering to the fundamental analytical techniques. The textbook contains chapters dedicated to microscopy (Chapter 16.2), infrared spectroscopy (Chapter 12), mass spectrometry (Chapter 18) and gas chromatography (Chapter 25). This is, in the absence of any counterindications, sufficient to conclude that the person skilled in the art was familiar with these techniques. Gucci's statement that DETX was a known photoinitiator at the application date of the Patent is supported by a reference to a textbook on photoinitiators by Crivello and Dietliker (Exhibit HLAR 48) and not contested by Agfa. There are no indications, and Agfa has not submitted any indication, that Dr. Clayton used additional techniques, knowledge or tools that were beyond the scope of the person skilled in the art.
62. The findings of Dr. Clayton are not called into question by the fact that DETX was not found in the gas chromatography and mass spectrometry analyses ("GC/MS analyses") performed by Dr. La Nasa, the results of which have been submitted by Gucci as exhibits HLAR 10 and 29. The purpose of the GC/MS analyses was to show that UV curable inks were used in the Flora Products by comparing the results of a GC/MS analysis of samples of the products with the profiles of commercially available UV curable inks. It is not contested that the markers of the samples aligned with those detected in commercially available UV curable inks. In that sense, the analyses support the findings of the Clayton Report. The purpose of the GC/MS analyses was not to comprehensively establish the composition of the samples or to show that photoinitiators could be found. The fact that no DETX was detected therefore cannot be considered to contradict the findings of Dr. Clayton, in particular since photoinitiators are not easy to detect because of their low concentration in the final product. It is true that paragraph [0081] of the

Patent teaches a substantial concentration of photoinitiators of 5-15 wt%, as Agfa observed. However, this concentration concerns the inks before curing. Agfa did not dispute that, after curing, the concentration would be so low that the photoinitiators would be difficult to detect.

63. The AMDIS Report by Dr. La Nasa (Gucci's exhibit HLAR 47, as corrected by HLAR 47A) does not cast doubt on the findings of Dr. Clayton either. The AMDIS Report describes the deconvolution of the previously acquired data from the GC/MS analyses by using AMDIS (Automated Mass Spectral Deconvolution and Identification System). Deconvolution is an algorithmic process that separates convoluted or overlapping mass spectra into their individual components. This process reconstructs the original pure spectrum for each analyte, even when the peaks of these spectra overlap in the chromatogram. On the basis of the deconvolution of the GC/MS analyses, Dr. La Nasa concluded that the photoinitiators parbenate and benzophenone were present in the samples from the coloured areas of the Flora Wallet and other Flora Products.
64. As acknowledged by Agfa, the differences between the Clayton Report and the AMDIS Report are to some extent explained by the use of different techniques. The fact that the AMDIS analyses did not reveal the presence of DETX therefore does not mean that the samples contained no DETX or that the person skilled in the art could not detect DETX. Moreover, the AMDIS Report focuses on the presence of photoinitiators and does not specify the more than 200 other compounds found in the coloured areas of the samples. Thus, the fact that the Clayton Report lists many compounds which were not expressly mentioned in the AMDIS report does not cast doubt on Clayton's findings.
65. The fact that parbenate is not listed in the Clayton Report does not disqualify the report either. The difference may be caused by the fact that the score which the AMDIS software provides for a compound is merely an indication of the presence of the compound. As Agfa states, supported by the statements of its expert Prof. Schoenmakers (Agfa's exhibits VB 51 and VB52) and not contested by Gucci, the results of the AMDIS software must be verified by comparing the data, such as the retention time, with those of a reference sample of the compound. It is not in dispute that such verification does not confirm the presence of parbenate. This is further supported by the fact that Gucci's expert Dr. Sparkman in his statement (Gucci's exhibit HLAR 51), did *not* conclude that parbenate was present in the samples after having verified the results of the AMDIS analyses.
66. Furthermore, the Clayton Report is more convincing evidence of what the person skilled in the art could do at the application date of the Patent than the AMDIS report. As noted by Agfa, the way Dr. La Nasa conducted the GC/MS and AMDIS analyses is not an entirely accurate representation of what the person skilled in the art could do. Firstly, Dr. La Nasa was given internal Gucci information about the inks used in the Flora Wallet, including the fact that it contained parbenate. Secondly, Dr. La Nasa performed the AMDIS analyses to address Agfa's objections that the GC/MS analyses did not reveal the presence of photoinitiators. The AMDIS analyses were therefore carried out with the specific purpose of finding photoinitiators. The notional skilled person would not have had this knowledge, and Dr. Clayton did not have this knowledge either. He was given the task of determining the printing process and ink chemistry and was not provided with any information or suggestion as to the printing process, the ink chemistry or the type of inks used and was instructed not to review the Patent. As a consequence, Dr. Clayton's conclusion that benzophenone was present in the samples, but was used as a light stabilizer in coatings rather than a photoinitiator, carries more weight than Dr. La Nasa's finding

that benzophenone was used as a photoinitiator. This is further supported by the statement of Agfa's expert Prof. Schoenmakers, who also notes that benzophenone is used as a light stabilizer and that the presence of trace amounts of it may be due to repeated touching of the second-hand Flora Wallet by hands having sunscreen, hand cream or fragrance on them (Agfa's exhibit VB 51, paragraph 28 and further).

67. Contrary to the opinion of Agfa, the findings of Clayton are not contradicted by the information on the Material Safety Data Sheet ("MSDS") of the inks that, according to Gucci, have been used in the production of the Flora Wallet (Gucci's exhibit HL 51; Agfa's exhibit VB 55). It is true that the MSDS does not mention DETX and some other compounds that Dr. Clayton detected. However, as acknowledged by Agfa, the MSDS does not provide an exhaustive list of all ingredients. Agfa did not state, let alone demonstrate, that DETX and these other compounds, at the concentration used, must be included on a MSDS. Therefore, the absence of these compounds on the MSDS list does not demonstrate that it was not present in the inks. The fact that the MSDS mentions another photoinitiator than DETX, namely TPO (trimethylbenzoyl diphenylphosphine oxide), does not call into question the presence of DETX either. The presence of TPO does not rule out the presence of DETX. This is confirmed by the fact that, according to the analyses of the Attacked Gucci Products by Agfa, the ink used in these products also contained both TPO and DETX (Agfa's exhibit VB 34, p. 43; quoted by Gucci in its Statement of grounds of appeal regarding the counterclaims for revocation, para. 507).

Feature 1.2.1 (use of pigmented inks)

68. Gucci also demonstrated that the Flora Products, including the Flora Wallet, directly and unambiguously disclose the use of pigmented inks.
69. By means of a Raman spectroscopy test report by the Institute for the Chemistry of Organometallic Compounds ("ICOC") (Gucci's Exhibit HLAR 32; the "Raman Report"), Gucci convincingly demonstrated that pigmented inks were used in the production of the Flora Products. Raman spectroscopy is an analytical technique that uses laser light to study how molecules vibrate. The ICOC compared the measured spectra of the samples ("the molecular fingerprint") to known spectra of commonly used coloured pigments extracted from databases, such as the Handbook of Raman Spectra for geology. The test directly and unambiguously revealed that the ink dots on the leather of the Flora Products contain yellow, red, blue and black pigments.
70. Gucci also demonstrated that Raman spectroscopy was a common analytical method for the person skilled in the art at the application date of the Patent and therefore that the person skilled in the art could detect the presence of pigmented inks. It referred again to the textbook by Skoog and Leary (Exhibit HLAR 36), which includes a chapter dedicated to Raman spectroscopy (Chapter 13). In the absence of any indications to the contrary, this is sufficient to conclude that the person skilled in the art was familiar with this technique.
71. The fact that the analyses were performed by the ICOC does not cast doubt on the conclusion that the person skilled in the art could detect the use of pigmented inks. The ICOC used the Raman spectroscopy method that was familiar to the person skilled in the art. There are no indications, and

Agfa has not submitted any indication, that the institute used additional techniques, knowledge or capabilities that were beyond the scope of the person skilled in the art.

72. Contrary to the contention by Agfa, the ICOC's findings are not based on internal Gucci knowledge of the inks present in the composition, which was not available to the person skilled in the art. It is true that the ICOC was informed that, in the production of the Flora Products, Gucci used a number of pigmented UV curable inks manufactured by HP (the "HP inks"). However, the ICOC compared the spectra of the samples of the Flora Products to the spectra extracted from databases, not the spectra from the HP inks. That comparison was within the scope of the person skilled in the art. In this respect, the Raman tests by the ICOC differ from GC/MS analyses performed by Dr. La Nasa (Gucci's Exhibits HLAR 10 and 29). As noted by Agfa, these GC/MS analyses are based on a comparison of the spectra of samples of the Flora Products to the spectra of the HP inks that Gucci allegedly used.
73. There is no doubt that the Flora Products provide an enabling disclosure of the use of pigmented inks as claimed in the Patent. Agfa observed that the Raman Report does not reveal the quantities of the pigments and contends that the person skilled in the art, without such knowledge, would not be able to reproduce the specific composition of the ink layer of the Flora Products. However, as the Court of Appeal pointed out above in paragraph 51, reproducibility of features which are not part of claim 1, such as specific quantities of the pigmented inks, is not required. It is therefore irrelevant that the Raman Report does not reveal the quantities. It is not disputed that the person skilled in the art was familiar with pigmented inks and knew how to use them in a process for manufacturing decorated leather.
74. Finally, the Raman report is not called into question by the Clayton Report. Dr. Clayton analysed the samples by using different techniques than Raman spectroscopy. As acknowledged by Agfa, different techniques may reveal different aspects of the inks. The fact that Dr. Clayton did not detect pigments therefore does not mean that the inks did not contain pigments, that the person skilled in the art could not have detected them or that the test results are ambiguous.

Validity of other claims of the Patent as granted

Validity of the other independent claims

75. Given that the subject matter of claim 1 is not novel in view of the Flora Wallet, the same applies to independent claims 10, 14 and 15. Product claims 10 and 14 relate to, respectively, a decorated natural leather and a leather article including such leather manufactured by the method according to claim 1. The only additional feature is a protective top coat. It is not in dispute that, in the Flora Products, a protective top coat is used and that the person skilled in the art could detect this feature (see the microscopy test report relating to the Flora Wallet, Gucci's exhibit HLAR 31, Figure 27). The features of use claim 15 correspond to features 1.1, 1.2 and 1.5 of claim 1, which all are disclosed by the Flora Products.

Validity of the dependent claims

76. Gucci's argument that dependent claims fall with the independent claim to which they are linked must be dismissed. This Court has already had the opportunity to clarify that the invalidity of an independent claim does not necessarily lead to the conclusion that the dependent claims are invalid as well. If a patent is attacked in its entirety, as in the present case, the validity of the dependent claims needs to be considered (UPC_CoA_473/2025, decision of 13 July 2026, Fujifilm v. Kodak, para. 54).
77. However, where the patentee requests that claimant's request for revocation of several or all claims of the patent is rejected, he is required to identify in a sufficiently substantiated manner which dependent claims it considers to be valid should the independent claim be held invalid (see R. 29A(a)-(c) RoP) (UPC_CoA_473/2025, decision of 13 July 2026, Fujifilm v. Kodak, para. 56). In the present case, Agfa, in its Defence to revocation, expressly argued i) the independent validity of all dependent claims in case the independent claims were considered invalid in view of the submitted written prior art, and ii) the independent validity of dependent claims 5, 6 and 9 in case the independent claims were considered invalid in view of the Flora Products (Statement of defence to the counterclaims for revocation and application to amend the patent of 9 April 2024, sections 6.4 and 7.5). Against this background, it is apparent that the request that Agfa made at first instance, that the counterclaim for revocation be dismissed, must be interpreted as a request to dismiss the counterclaim in whole or in part and to uphold the Patent in its entirety or in accordance with any dependent claim. Contrary to the opinion of Gucci, the request that Agfa made in the appeal proceedings to reject the counterclaim and uphold the Patent in whole or in part is therefore a clarification, and not an extension, of Agfa's request. Gucci's objection to the newly formulated request must be rejected for that reason.
78. The Court of Appeal understands that Agfa is defending the independent validity of the combination of each dependent claim with an independent claim separately. It will therefore subsequently examine the validity of each dependent claim individually.

Dependent claims 3, 4, 7, 8 and 13

79. Neither at first instance nor on appeal did Agfa provide any response to Gucci's argument that the features of the dependent claims 3, 4, 7, 8, 12 and 13 were disclosed by the Flora Wallet and are thus not novel. Those claims must therefore be considered invalid.

Insufficiency of disclosure of claim 5

80. In the Statement of grounds of appeal, Gucci argued for the first time that the subject matter of claim 5 is not disclosed in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art within the meaning of Articles 83 and 138(1)(b) EPC. It is not necessary to decide whether this argument must be disregarded pursuant to R. 222.2 RoP or must be admitted in view of the fact that Gucci did raise the argument in relation to Agfa's auxiliary request 2, which contains the same limitation as claim 5. If the argument were considered admissible, it would fail on the merits.
81. Gucci argues that the Patent does not provide any example of an ink complying with the concentration range of claim 5. Leaving aside that the absence of an example does not necessarily mean that the

person skilled in the art cannot carry out the claimed invention, Gucci's argument is based on the assumption that compound CN3755 is a polyfunctional oligomer within the meaning of claim 5 and that therefore the weight percentage of polyfunctional components in all the examples that are described in the Patent is more than the upper limit of the range of claim 5. This assumption is incorrect for the reasons given above in the context of the construction of claim 5 (see para. 46 ff.). Given the irrelevance of CN3755, it is common ground that Table 12 of the Patent discloses examples of inks in accordance with claim 5.

Novelty of claim 5 in view of JP 054

82. Claim 5 is dependent on claim 1 and includes the additional feature that the UV curable ink contains polyfunctional monomers or oligomers in a concentration of 1 to 20 wt% based on the total weight of the UV curable ink. Claim 5 is novel in view of Japanese patent application 2010-185054 (Gucci's Exhibit HLAR 8; hereinafter "JP 054") as that document does not directly and unambiguously disclose this additional feature.
83. Gucci refers to para. [0015] of JP 054, which discloses that the ink contains a polyfunctional oligomer (urethane acrylate) in the range between 5 and 20 wt% (in the English translation, submitted by Gucci as HLAR 8a, with emphasis added):

[0015] In more detail, for example, an ink containing 1 to 30 wt% of colorant, **5 to 20 wt% of urethane acrylate having a molecular weight of 4000 or more and having 2 to 3 acryloyl or methacryloyl groups in 1 molecule**, 10 to [70]% of a reactive diluent, and 1 to 15 wt% of an ultraviolet polymerization initiator can be cited as preferred embodiments. It is moreover preferable to include plasticizers such as phthalate diesters or aliphatic dibasic acid esters. [...]

However, as noted by Agfa, the ink disclosed in this paragraph [0015] also contains a "reactive diluent". Paragraph [0014] of JP 054 teaches that the reactive diluent may be "*polyfunctional acrylates*". Using such a reactive diluent would mean that the concentration of the reactive diluent has to be added to the concentration of the urethane acrylate to determine the concentration of polyfunctional monomers or oligomers within the meaning of claim 5. In combination, the range of polyfunctional monomers or oligomers is 15 to 90 wt%. This does not directly and unambiguously disclose the claimed range of 5 to 20 wt%. This is supported by the fact that the total concentration of polyfunctional monomers or oligomers in all the examples of JP 054 is more than 70 wt%.

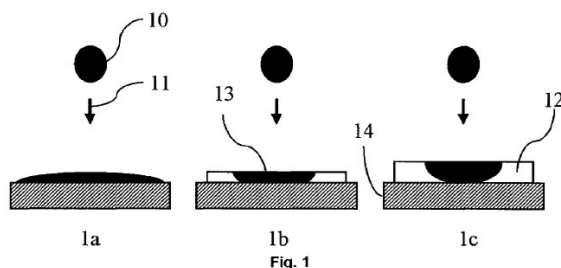
84. Admittedly, paragraph [0014] discloses that the reactive diluent may also be monofunctional acrylates, since it refers to "*photopolymerizable monomers (reactive diluents) such as monofunctional acrylates or polyfunctional acrylates*". Still, JP 054 as a whole does not directly and unambiguously disclose the claimed concentration of polyfunctional components, also in view of the high concentration of polyfunctional components in all the examples of JP 054.
85. Gucci's argument that paragraph [0015] of JP 054 does disclose the additional feature of claim 5 is based on the assumption that the feature is realized if the concentration of either the polyfunctional monomer or the concentration of the polyfunctional oligomer is within the claimed range. As the Court

set out above in the context of the construction of claim 5 (see para. 44 ff.), this assumption is incorrect.

Novelty of claim 5 in view of US 601

86. Gucci's argument that the subject matter of claim 5 is not novel in view of US patent application 7 520 601 (Gucci's exhibit HLAR 9; hereinafter: US 601) must be dismissed. The Court of Appeal concurs with the finding of the Hamburg Local Division that US 601 does not directly and unambiguously disclose feature 1.2 (inkjet printing a colour image on the base coat). US 601 teaches printing *in* a radiation curable liquid layer, not printing *on* a base coat. Since claim 5 is dependent on claim 1, US 601 does not disclose all the features of the claimed subject matter.

87. The principle underlying the disclosure of US 601 is illustrated by the following Figure 1 of US 601:



As explained in column 3, lines 45 to 58, of the description of US 601, Figure 1a shows how an ink droplet (10) may exhibit a large spreading if it is jetted onto a substrate (14), such as leather. Figures 1b and 1c illustrate the spreading of an inkjet droplet which is jetted into a radiation curable layer (12) provided on a substrate. They show that the radiation curable liquid layer surrounds the droplets and prevents them from broadly spreading across the surface of the substrate. However, the ink droplet is still placed on the substrate. US 601 therefore discloses printing on the substrate and into the liquid layer, rather than printing on a base coat applied on a substrate.

88. These findings are not called into question by the fact that US 601 refers to the ink forming "an image on the ink-receiver" (column 4, lines 51 to 57). US 601 expressly defines the ink receiver as "a substrate provided with a radiation curable liquid layer" (column 5, lines 37 to 40), i.e. the combination of elements (12) and (14) in Figures 1b and 1c. This reference is consistent with the general teaching of US 601, under which the ink is to be printed on the substrate and into the liquid layer, and not on a base coat applied on the substrate.

89. Nor is the assessment altered by the fact that US 601 discloses that a second inkjet droplet may be applied on top of the cured layer (column 17, lines 35 to 52). US 601 does not directly and unambiguously disclose that this second inkjet droplet is used in printing a colour image that, in combination with the achromatic colour of a base coat, provides a decorative image. On the contrary, US 601 discloses the jetting of the second inkjet droplet merely in the context of achieving a particular size of the ink dots that are jetted into the liquid layer and form the image. According to US 601, it is desirable that these dots have approximately the same size as ink droplets jetted onto the liquid layer after curing. It teaches adjusting the thickness of the radiation liquid layer such that the dots of the ink

droplets jetted into the layer have this desired size. It does not directly and unambiguously disclose that the ink droplet jetted onto the liquid layer forms part of a decorative image. The mere fact that the ink is a coloured ink is not sufficient.

Inventive step claim 5

90. Gucci's argument that the subject matter of claim 5 was obvious to the person skilled in the art starting from either the Flora Products or US patent application 7 891 799 (Gucci's exhibit HLAR 7; hereinafter: "US 799") in combination with JP 054 must be dismissed. It is based on the assumption that JP 054 discloses the concentration range of claim 5. That assumption is incorrect for the reasons given above (see para. 82 ff.).

Inventive step of claim 6

91. Claim 6 is dependent on claim 1 and specifies that an organic solvent or water is present in the UV curable ink at a concentration of 0 to 20 wt% of the total weight of the UV curable inkjet ink. The subject matter of claim 6 would have been obvious to the person skilled in the art at the application date.

92. As observed above in paragraph 15, the objective problem underlying the Patent is that of developing a method for manufacturing decorated leather having high image quality and colour consistency, while not sacrificing inkjet printing reliability or physical properties like flexibility.

93. The Flora Products would have been of interest to a person skilled in the art who, at the application date, wished to solve the objective problem. This is because the Flora Products disclose a decorated leather having high image quality, colour consistency and flexibility, as well as many features of the manufacturing method used to produce these products. As the Court established above in paragraphs 52 ff., the Flora Wallet discloses all the features of the manufacturing method of claim 1, as well as the features of claims 3, 4, 7, 8, 10, 13, 14 and 15.

94. The Flora Products do not disclose the additional feature of claim 6 (a solvent or water is present in the UV curable ink at a concentration of 0 to 20 wt% of the total weight of the UV curable inkjet ink). However, the person skilled in the art, starting from the Flora Wallet, would arrive at a method having this feature. The Flora Wallet discloses that pigmented UV curable inkjet inks were used, but not the precise ink formulation. As such a formulation is necessary to produce the inks and use the manufacturing method, the person skilled in the art would be motivated to look for formulations of pigmented UV curable inkjet inks that can be printed on a base coat in the context of manufacturing decorated natural leather product such as the Flora Wallet. That the person skilled in the art would be motivated is supported by the fact that printing with UV curable inkjet inks was a well-established printing technique at the application date, as Gucci demonstrated referring to a handbook on the chemistry of inkjet inks (Gucci's Exhibit HLAR 6). The person skilled in the art would then find JP 054, since that document discloses the formulation of a pigmented UV curable inkjet ink which is used for printing on a base coat in the context of manufacturing decorated natural leather. Agfa contested this by arguing that the person skilled in the art would not have known whether a solvent was used in the

inks of the Flora Wallet. However, this does not mean that the person skilled in the art would not be motivated to look for the ink formulation or would not find JP 054.

95. JP 054 also discloses the additional feature of claim 6. The feature requires that an organic solvent or water is present in the UV curable ink at a concentration of 0 to 20 wt% of the total weight of the UV curable inkjet ink. This means that the feature is realised where the ink formulation comprises an organic solvent or water in a concentration of at most 20 wt% or does not comprise any organic solvent, nor any water. Against this background, it can remain undecided whether the reactive diluent in the ink formulation of JP 054 is an organic solvent within the meaning of claim 6. If it is an organic solvent, it is uncontested that JP 054 discloses a concentration of it within the claimed range. If reactive diluents are not an organic solvent, as Agfa argues, JP 054 still discloses the additional feature of claim 6. This is because the ink formulations disclosed in JP 054 do not include any other compound that is a solvent within the meaning of claim 6, nor any water. That Gucci's argument must be understood in this way was expressly confirmed by Gucci during the oral hearing and was not contested by Agfa.
96. Agfa's argument that JP 054 does not disclose that the ink formulation concerns an *inkjet* ink must be disregarded pursuant to R. 222.2 RoP. Agfa did not bring this argument at first instance and failed to provide any justification for not doing so. In addition, if the argument were admissible, it would have been dismissed on the merits. It is true that the paragraphs of JP 054 that specify the ink formulation do not expressly mention that it is an inkjet ink formulation. However, the person skilled in the art would read JP 054 as a whole, and paragraph [0014] states that the UV curable ink to be used on the base coat preferably is an ink that can be printed by an ink jet recording method.
97. In addition, Agfa's argument is based on the assumption that the preparation of the inkjet ink requires milling the pigments to achieve submicron-size particles necessary for jetting the ink, which step is not disclosed by JP 054. However, Gucci pointed out that JP 054 teaches to use a particular pigment as starting material, namely Carbon black, MA 11, manufactured by Mitsubishi Chemical Corporation (para. [0029] of JP 054) and stated, uncontested, that this pigment is already nanoscale. Milling will therefore not be necessary. Furthermore, Gucci demonstrated that Agfa's assertion that the person skilled in the art would assume the ink to be screen-print ink rather than an inkjet ink is incorrect. It explained that the disclosed composition of the ink, containing a large concentration of highly fluid diluent monomers, would not yield the highly viscous pastes required for screen printing.
98. In addition, as observed above, Gucci demonstrated that inkjet printing with UV curable inkjet inks was a well-established printing technique. The person skilled in the art could and would therefore produce a UV curable inkjet ink according to the formulation disclosed in JP 054.

Inventive step of claim 9

99. Claim 9 is dependent on claim 1 and specifies that the printed leather is heat pressed. Gucci argues that the subject matter of claim 9 was obvious in view of JP 054 or a combination of the Flora Products and JP 054. However, JP 054 does not disclose heat pressing within the meaning of claim 9. It discloses the separate steps of "hot air drying" and "engrav[ing] the surface by stamping". Gucci did not demonstrate that the person skilled in the art would combine these steps. It also failed to address Agfa's argument that the person skilled in the art would not combine the steps, since engraving a

surface which carries a coating which has not yet been dried would not allow an intact, engraved coating to be obtained. Furthermore, it failed to demonstrate that the person skilled in the art would consider the combination of hot air drying and engraving the surface by stamping to constitute heat pressing within the meaning of the Patent. Such an interpretation is not apparent in view of the fact that the Patent distinguishes between heat pressing and embossing.

Inventive step of claims 2 and 11

100. At first instance, Agfa did not argue that claims 2 and 11 are valid even if independent claims 1 and 10 are not novel in view of the Flora Products. It only argued the independent validity of claims 5, 6 and 9. In its Statement of response in the appeal proceedings, Agfa brought additional arguments relating to claims 2 and 11. Those arguments must be disregarded pursuant to R. 222.2 RoP. Agfa did not raise these arguments at first instance and failed to provide any justification for not doing so. Moreover, due to the late stage at which the arguments have been introduced, Gucci has had no opportunity to respond to the argument in writing.

101. In addition, if the request and the arguments were admissible, they would not succeed on the merits. Claims 2 and 11 are dependent on claims 1 and claim 10, respectively, and comprise the additional feature that the crusted leather is dyed. The subject matter of these claims would have been obvious to the person skilled in the art at the application date.

102. As the Court set out above, the Flora Wallet would have been of interest to a person skilled in the art who, at the application date, wished to solve the objective problem. The Flora Wallet does not disclose the additional feature of claims 2 and 11. However, Gucci pointed out that the person skilled in the art would dye the leather to achieve a certain colour impression for the customer and that the dying of leather prior to crusting was common general knowledge of the person skilled in the art. Dying the leather prior to crusting would therefore have been obvious to the person skilled in the art as a routine measure.

103. In response, Agfa merely stated that dyes darken the leather. This may be true, but it does not refute Gucci's argument that the person skilled in the art would dye leather, since a darkened leather may be in accordance with the preferred colour impression for the customer. Agfa was right not to argue that the preference for a dark-coloured leather as such was sufficient to support inventive step starting from the Flora Wallet.

Validity of auxiliary requests

104. As the Patent as granted will be maintained in part, it is not necessary to examine the validity of Agfa's auxiliary requests. This is because Agfa requested to uphold the Patent in amended form in accordance with one of the auxiliary requests as an alternative to upholding the Patent in whole or in part. That Agfa's request must be understood in this way is confirmed by the fact that it indicated that the auxiliary requests have been filed as a precautionary measure to maintain certain dependent claims, in case the Court of Appeal were to require an auxiliary request to uphold dependent claims (Statement of response in the revocation proceedings, para. 238).

Infringement action

Revoked claims

105. The infringement action, which is based on claims 1, 3, 4, 5, 6, 7, 10, 12, 13, and 14 of the Patent, must be dismissed to the extent that the Patent will be revoked. This follows from the rule that the Patent must be deemed not to have had the effect specified in Articles 64 and 67 EPC from the outset (Art. 65(4) UPCA). It is therefore not necessary to assess whether the Attacked Gucci Products or the method by which they are manufactured fall within the scope of protection of claims 1, 3, 4, 6, 7, 10, 12, 13 and 14.

106. Claims 5 and 9 of the Patent will be upheld. However, claim 9 is not relevant for the infringement action, since Agfa has not alleged infringement of this claim. The following assessment will therefore focus on claim 5.

Claim 5

107. As indicated above, the Patent will be maintained in part in the form of a combination of claims 5 and 1. The infringement action must also be dismissed to this extent. Agfa has not demonstrated that Gucci infringed this combination of claims.

108. Agfa has not provided any conclusive evidence supporting its contention that polyfunctional monomers or oligomers were present in the inks used in manufacturing the Attacked Gucci Products within the range of claim 5. Agfa merely refers to the flexibility of the leather of the Attacked Gucci Products. However, the fact that, according to the Patent, the claimed feature results in flexible printed leather does not necessarily mean that any flexible printed leather must be the result of the claimed feature. In addition, Agfa has not even stated, let alone demonstrated, that the Attacked Gucci Products display the level of flexibility which the claimed invention would realise according to the Patent, namely: no cracks visible by the naked eye or by microscope (para. [0135] of the Patent).

109. Agfa's reference to R. 172(1) RoP cannot succeed. Under this Rule, evidence available to a party regarding a statement of fact that is contested or likely to be contested by the other party must be produced by the party making that statement of fact. In the present case, it is Agfa that is making the statement that Gucci uses the method of claim 5. It therefore cannot rely on R. 172(1) RoP to have Gucci produce any evidence. At the oral hearing on appeal, Agfa further referred to R. 172(2) RoP. This must fail for the same reasons, since R. 172(2) RoP also concerns evidence that must be produced by the party making a statement of fact. It does not provide a basis for reversing the burden of proof.

110. Art. 55(1) UPCA does provide a basis for a reversal of the burden of proof. On the basis of this provision, the burden of proof of the use of a patented process is reversed where the subject-matter of a patent is a process for obtaining a new product and an identical product is produced without the consent of the patent proprietor. However, Agfa failed to demonstrate that the process of claim 5 results in a new product. Agfa merely refers to claim 10 of the Patent, but claim 10 is not novel in view of the Flora Wallet. Nor did Agfa demonstrate that the Attacked Gucci Products are identical to the products resulting from the method of claim 5. It merely referred to the flexibility of the leather. As

pointed out above, that is not sufficient. For the same reason, Agfa cannot rely on Art. 55(2) UPCA either, since this provision also requires identical products of the claimed process.

Conclusion

111. Since the Court of Appeal concurs with the conclusion of the Hamburg Local Division that the infringement action must be dismissed, Agfa's appeal against the Impugned Decision must be rejected.
112. Since the Court of Appeal, contrary to the Hamburg Local Division, concludes that the Patent must be revoked in part, the Impugned Decision on the counterclaims for revocation must be set aside in part. The Patent must be upheld to the extent it concerns claim 5 in combination with claim 1 and claim 9 in combination with claim 1, as well as claims 6, 7, and 8, to the extent that these claims depend on the maintained claim 5. It must be revoked to the extent it exceeds the subject matter of these claims.
113. As the unsuccessful party, Agfa must bear the costs of the infringement action at both instances. Agfa must also be considered the unsuccessful party in the proceedings relating to the counterclaims for revocation, in view of the large extent to which the Patent will be revoked. Agfa has not demonstrated that the Patent, insofar as it has not been revoked, is of sufficient value to justify that part of the costs be borne by Gucci, also considering that Gucci is held not to have infringed the maintained part of the Patent. Agfa must therefore bear the costs of the counterclaims for revocation at both instances too. The decision of the Hamburg Local Division that Gucci must bear 60 % of the costs will therefore be set aside, as requested by Gucci.
114. The Hamburg Local Division set the value of the infringement action and the counterclaims for revocation at EUR 1 000 000 and 1 500 000, respectively. These values were not challenged by the parties on appeal and the Court of Appeal sees no reason to adjust them either. Since the appeal by Agfa concerns the infringement action and the appeals by Gucci mainly concern the counterclaims for revocation, the Court of Appeal will use those values for the appeals as well.

DECISION

In the appeal filed by Agfa (UPC-CoA-602/2025),

- I. The appeal is rejected;
- II. Agfa is ordered to bear the costs of the appeal proceedings;

In the appeals filed by Gucci (UPC-CoA-582/2025 and UPC-CoA-590/2025 to 597/2025)

- III. The Impugned Decision is set aside to the extent that the counterclaim for revocation was dismissed in its entirety and that Gucci was ordered to bear 60 % of the costs of the infringement action and the counterclaims for revocation;
- IV. The Patent is revoked with effect for the territories of Belgium, France, Germany, Italy and Sweden to the extent that it exceeds the subject matter of claim 5 in combination with claim 1 and claim 9

in combination with claim 1, as well as claims 6, 7, and 8, to the extent that these claims depend on the maintained claim 5;

- V. Agfa is ordered to bear the additional 60 % of the costs of the infringement action and the counterclaims for revocation at first instance;
- VI. Agfa is ordered to bear the costs of the appeal proceedings;

In all appeals

- VII. The value of the actions in the appeal proceedings is set in total at EUR 2 500 000, of which EUR 1 000 000 is attributable to the appeal regarding the infringement action and EUR 1 500 000 is attributable to the appeals regarding the counterclaims for revocation.

This decision was issued on 21 October 2026

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Klaus Grabinski, President of the Court of Appeal

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