

EIP



Agfa v Gucci at the UPC – what is the patent about?

The patent infringement claim recently filed by Agfa against Gucci in the Unified Patent Court, Hamburg Local Division, has attracted much interest here at EIP Latest.

Intellectual property disputes in the fashion sector usually relate to trademarks, or perhaps copyright or designs – it is a rare treat for a patent to be involved. Moreover, most of the cases filed at the UPC so far involve regular participants in the European patent litigation arena, which is not the case here. Additionally, most early filed UPC cases concern patent disputes that are already being litigated in other venues, which, as noted by IAM and JUVE, does not appear to be the case here.

I have a particular interest in the subject matter, as I have had an enthusiasm for colour chemistry since my undergraduate days and have for over 20 years been a professional member of the Society of Dyers and Colourists. One of the first patent disputes I was involved in concerned the production of intensely dyed tracing paper. Therefore this dispute really grabbed my attention.

So I have taken a look at the patent being asserted - EP3388490. According to Espacenet, the patent has family members in Brazil, China, Japan, Korea, Russia, and USA. It was not opposed at the European Patent Office.

The invention according to AGFA NV patent EP3388490 relates to inkjet printing on natural leather using pigmented inks.

Claim 1 as granted reads:

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.

“Crusted leather” refers to leather before the final finishing step (for example may include polishing, embossing, or lacquer coating). An “achromatic” colour is black, white or grey; as explained in the description “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.” So, it can be seen that the first step involves application of a white or grey base layer and the second step involves inkjet printing a colour image on top. The desired decorative image on the leather is achieved from the combination of the base coat and the inkjet printing. Figure 5 depicting an embodiment of the invention is particularly cute - described as “a schematical representation of an inkjet printed leather (51) including a red coloured devil smiley on a brown background”:



In the originally filed claim, the first step defined the pigment “providing **a chromatic colour** or an achromatic colour different from black”.

On 22 June 2017, a search report and a European search opinion were issued ([which can be viewed here](#)), which stated that all claims were considered to lack novelty with regard to a US patent application [US2010/0233441](#).

On 24 January 2019 an [amended](#) set of claims 1 to 15 was filed, on the basis of which the patent was granted on 21 July 2021. In the amended claims, the “chromatic colour” wording was deleted from claim 1.

Consequently, the patent apparently covers a white or greyscale base coat, but not a base coat containing a pigment for **chromatic** colours.

What is not clear from the publicly available information about the case is the alleged infringement(s). It is tempting to speculate, but I shall refrain for now until more

information emerges.

p4

We will continue to follow the story at the Unified Patent Court.

Patent Description and claims:

<https://worldwide.espacenet.com/publicationDetails/originalDocument?FT=D&date=20210721&DB=&locat>