

UPC_CFI_278/2023
Final Order
of the Court of First Instance of the Unified Patent Court
delivered on 04/10/2023

HEADNOTES

Extension of deadlines in the case of a plurality of defendants. Appointment of a Representative making an electronic service possible. Alignment of deadlines. Partial consent of the other party.

KEYNOTES

Extension of deadlines according to Rule 19.1 RoP. Extension of deadlines according to Rule 23 RoP. Partial consent of the other party.

APPLICANT/S

1. **Guccio Gucci S.p.A.** Statement of claim served on 19/09/2023
(Defendant) - Via Tornabuoni 73/r - 50123 -
Florence - IT Represented by Benjamin Schröer

2. **Marbella Pellami S.p.A.** Statement of claim served on 19/09/2023
(Defendant) - Via Marco Polo 91 - 56031 -
Bientina - IT Represented by Benjamin Schröer

3. **G Commerce Europe S.p.A.** Statement of claim served on 19/09/2023
(Defendant) - Via Don Lorenzo Perosi 6 -
50018 - Scandicci - IT Represented by Benjamin Schröer

4. **Gucci Logistica S.p.A.** Statement of claim served on 19/09/2023
(Defendant) - Via Don Lorenzo Perosi 6 -
50018 - Scandicci - IT Represented by Benjamin Schröer

5. **GG Luxury Goods GmbH** Statement of claim served on 09/09/2023
(Defendant) - Unter den Linden 21 - 10117 -
Berlin - DE Represented by Benjamin Schröer

6. **Gucci France SAS**
(Defendant) - 7 Rue Leonce Reynaud - 75116
- Paris - FR
Statement of claim served on 19/09/2023
Represented by Benjamin Schröer
7. **GG FRANCE SERVICES SAS**
(Defendant) - 37 Rue de Bellechase - 75007 -
Paris - FR
Statement of claim served on 19/09/2023
Represented by Benjamin Schröer
8. **Gucci Belgium SA**
(Defendant) - Boulevard de Waterloo 49 -
1000 - Bruxelles - BE
Statement of claim served on 13/09/2023
Represented by Benjamin Schröer
9. **Gucci Sweden AB**
(Defendant) - Birger Jarlsgatan 1 - 11145 -
Stockholm - SE
Statement of claim served on 19/09/2023
Represented by Benjamin Schröer

RELEVANT PARTY

AGFA NV
(Claimant) - Septestraat 27 - 2640 -
Mortsel - BE

Represented by Kai Rütting

REFERENCE CODE ECLI: Not provided

PATENT AT ISSUE

<i>Patent no.</i>	<i>Proprietor/s</i>
EP3388490	AGFA NV

DECIDING JUDGE

Judge-rapporteur **Stefan Schilling**

LANGUAGE OF PROCEEDINGS:

English

SUBJECT-MATTER OF THE PROCEEDINGS:

Infringement Action

GROUND FOR THE ORDER

The Applicants jointly requested on September 25th to extend the deadline for lodging the statement of defence until 8 January 2024, and to extend the deadline for lodging a preliminary objection until 6 November 2023, both for all Defendants. The Claimant, who has been invited by the Court to comment on the request, confirmed that she consented to an extension of the deadline for lodging the statement of defence until January 8, 2024, to allow the Defendants' counsel to finalize the submission over the holiday period. She declared not to have given consent to an extension of the deadline for lodging preliminary objections by four weeks - and still does not consent apart from an alignment of the due date for Defendant 5).

As a starting point the deadline for lodging a preliminary objection is within one month of service of the statement of claim (R. 19.1 and R. 271.6 RoP), the deadline for lodging the statement of defence is within three months of service of the statement of claim (R. 23 RoP). The Defendants received service between September 9th (Defendant 5), 13th (Defendant 8) and 19th (all other Defendants), meaning that the deadline for lodging the preliminary objection currently expires on October 9th, 13th and 19th and the deadline for lodging the statement of defence currently expires on December 11th (R. 301.1 RoP), 13th and 19th, respectively.

As the parties agreed on an extension (and alignment) of the deadline for the lodging the statement of defence the Court sees no reason not to grant the extension of this deadline as requested.

Regarding the deadline for lodging a preliminary objection the Claimant agreed to an alignment of the due date for Defendant 5), only. Whereas there is no necessity that each and every deadline have to be aligned for all parties on the claimants' or the defendants' side, there is still a procedural advantage especially in the beginning of the work of the Court as it streamlines the work-flow for all users with regard to the still developing nature of the Case Management System.

Furthermore, in the case in question the Judge-rapporteur considers a moderate extension of the time-limit being appropriate in the light of the – then prospective – Representative Schröer considering to appoint himself as Representative for all Defendants. By that move the Representative helped to provide for a prompt and successful service of the statement of Claim to all remaining Defendants via electronic service, though risking a shortening of the relevant deadlines. The extension granted aligns with the UPCs system of time-limits, where the deadline for the preliminary objection expires two months before the deadline for the statement of defence.

The competence of the Judge-rapporteur for this order follows R. 331.1 and 334 (a) RoP.

ORDER

1. The deadline for lodging a preliminary objection is extended for all Defendants until November 6th 2023.
2. The deadline for lodging the statement of defence is extended for all Defendants until January 8th 2024.

ORDER DETAILS

Order no. 576288 in ACTION NUMBER: ACT_561734/2023

UPC number: UPC_CFI_278/2023

Action type: Infringement Action

Related proceeding no. Application No.: 576228/2023

Application Type: Generic procedural Application

Issued in Hamburg, October 4th, 2023

Legally qualified Judge Dr. Schilling
Judge-rapporteur