

This is an unofficial translation of the ex parte court order of January 27, 2011, obtained by Louis Vuitton against artist Nadia Plesner. This translation is made by Kennedy Van der Laan attorneys in Amsterdam, the firm that represents Nadia Plesner.

A short comment on behalf of our client, Nadia Plesner:

Nadia believes this court order is a gross violation of her right to free speech and artistic freedom under Section 10 of the European Convention on Human Rights. Amongst others, it forbids her from including the image of the boy with the Louis Vuitton look-a-like bag and Paris Hilton dog in her painting Darfurnica (sections 14 and 3.1) and on her website (sections 17 and 3.1).

She feels Louis Vuitton abused the ex parte procedure to violate her rights. Ex parte means that the defendant is not heard. This means the ruling of the court is merely based on the view put forward by Louis Vuitton, without Nadia having had the chance to defend herself. She was at her exposition in Denmark when the order was served on her at her address in The Netherlands. The order consists mainly of the arguments put forward by Louis Vuitton (sections 1.2 through 2.1). Louis Vuitton is misleadingly trying to create a picture of Nadia selling all sorts of merchandising. Aside from the fact that Nadia feels that an artist has the right to depict art on t-shirts and merchandising, the fact of the matter is that she does not.

Ex parte proceedings are meant for evident violations of intellectual property rights, for example to stop a shipment of counterfeit shoes from China. It is not meant to stifle artistic freedom and free speech. Nadia will fight the court order in summary proceedings.

Attorneys Nadia Plesner: Jens van den Brink ([jens.van.den.brink@kvdl.nl](mailto:jens.van.den.brink@kvdl.nl)) and Christien Wildeman ([christien.wildeman@kvdl.nl](mailto:christien.wildeman@kvdl.nl)).

## **DECISION**

**Court of The Hague**  
Civil Law Section

application number: KG RK 10-214

**Decision of 27 January 2011**

in the matter between:

1. the company incorporated under foreign law  
**LOUIS VUITTON MALLETIER SA**

having its registered office in Paris, France,

applicant,

Attorneys: *mr.* B.J. van den Broek and *mr.* L. Fresco of Amsterdam,

versus

1. **NADIA PLESNER JOENSEN**, also trading as **GEMININK**, residing in Winkel, municipality of Nieuwe-Niedorp,
2. **ELOISE FLORIO GALLERI**, also trading as **GALLERI ESPLANADEN**, having its business address in Copenhagen, Denmark,

respondents.

## 1. The Application

1.1. On 26 January 2011 the General Affairs Office of this Court received an application requesting the Court to provide provisionally enforceable immediate relief, in the form of an order to prevent a threatening infringement of intellectual property rights, pursuant to Section 1019e of the Code of Civil Procedure ("Rv").

1.2. The attorney of the applicant was given the opportunity to explain the application by telephone, after which the application was adapted, and the adapted version was sent to the Court. As far as relevant, the adapted application has been included below.

---

Application pursuant to Section 1019e of the Rv to provide provisionally enforceable immediate relief, without summoning the respondents to court, in order to prevent a threatening infringement of intellectual property rights

To His/Her Honour the  
Judge in preliminary relief proceedings  
of the Court of The Hague

The applicant is:

the company incorporated under foreign law **LOUIS VUITTON MALLETIER SA**, having its registered office and/or principal place of business at 2 rue du Pont-Neuf in (F-75001) Paris, France, electing domicile in this matter in Amsterdam (1096 HA) at Amstelplein 1, at the offices of the attorneys *mr.* B.J. van den Broek and *mr.* L. Fresco, who will be handling this case.

The respondents are:

1. **NADIA PLESNER JOENSEN**, also trading as **GEMININK**, residing and having her registered office at Veldwachterspad 1 in Winkel

(1731 XL);

2. **ELOISE FLORIO**, also trading as **GALLERI ESPLANADEN** having its registered office and/or principal place of business at Esplanaden 1C in (1263) Copenhagen, Denmark;

### **The Background of the Dispute**

1. The claimant (hereinafter to be referred to as: “Louis Vuitton”) was established in 1854 and is a leading fashion house specializing in the design of bags, trunks and fashion accessories<sup>1</sup>.
2. In 2003 Louis Vuitton introduced a new design, consisting of a pattern of multi-coloured graphical elements, which is also referred to by the name “Multicolor Canvas” (also to be referred to below as: the “Multicolor Canvas Design”). In April 2005 Louis Vuitton launched a new bag on the market called “Audra” (to be referred to below as: the “Audra Bag”). The Audra Bag has a distinct appearance and bears the Multicolor Canvas Design. The bag has proved a big success.
3. An illustration of the Audra Bag is provided below:



4. Louis Vuitton is holder of, *inter alia*, the European design registration nr. 84223-0001 (filed on 6 October 2003), in which the Multicolor Canvas Design is protected (to be referred to below as: the “Design”; **Exhibit 1**).<sup>2</sup>

---

<sup>1</sup> The website van Louis Vuitton ([www.louisvuitton.com](http://www.louisvuitton.com)) provides an extensive description of Louis Vuitton and its activities.

<sup>2</sup> Besides, Louis Vuitton is the rightholder of several other intellectual property rights relating to the Audra Bag, including the copyright relating to the design of the bag. To avoid making the present proceedings more complicated, this application will exclusively rely on the Design. However, Louis Vuitton expressly reserves all rights with regard to the infringement by the respondents of its other intellectual property rights relating to the Audra Bag, as well as with regard to the (other) unlawful acts by the respondents.



5. The respondent under 1 (“Plesner”) engages in the manufacture and sale of works of art. An extract of the Trade Register of the Chamber of Commerce is submitted as **Exhibit 2** of the sole proprietorship run by Plesner under the name “Geminink”.

6. In 2008 Louis Vuitton had to conclude that Plesner was selling T-shirts and posters under the name “Simple Living”, containing a picture of the Audra Bag of Louis Vuitton (to be referred to below as: the “Simple Living Products”) (**Exhibit 3**).

7. The Simple Living Products are depicted below:



8. Plesner sold these products in the context of her campaign for Darfur. In Plesner's opinion there was a lack of attention for the wrongs in the world. She therefore made a picture

in which the “*cruel reality*” was combined with “*showbiz elements*”, which, as Plesner apparently thought, included the Audra Bag of Louis Vuitton.

9. Although Louis Vuitton considered the campaign for Darfur praiseworthy in itself, it opposed the unauthorized use made by Plesner of its intellectual property rights. Louis Vuitton repeatedly requested Plesner to cease the use of its intellectual property rights in the Simple Living Products. When Plesner refused to comply with these requests voluntarily, Louis Vuitton felt compelled to take legal action in order to protect its intellectual property rights.

10. To this end, Louis Vuitton applied to the Tribunal de Grande Instance in Paris on 25 March 2008, which imposed an (ex parte) prohibition for infringement of the rights in respect of the Design, and awarded the symbolic amount of damages that Louis Vuitton had claimed (**Exhibit 4**). Cf. the decision of the French Court translated into English (p. 7 of the Decision starting from “*Vu la requête ...*”):

*“In view of the prior request and the documents in substantiation thereof, which prove that the infringement cannot be disputed and that there is a big risk that the infringing objects will be disseminated through a website that is operated by a person residing in the Netherlands:*

- *Prohibits Ms. Nadia PLESNER from continuing the presentation, offering for sale and the exploitation of products infringing the Community design registered under number 000084223-0001, on pain of forfeiture of a penalty of 5,000 Euro for each day of non-compliance after the service of this decision.*
- *Orders Ms. Nadia PLESNER to pay to the company of LOUIS VUITTON MALLETIER a provisional sum of 1 euro as damages.”*

11. Despite this court order, Plesner has continued offering and selling the Simple Living Products. Moreover, she has been seeking publicity in an aggressive way, accusing Louis Vuitton of wanting to halt her campaign for Darfur. As a result of these acts Louis Vuitton has suffered great damage.

12. In a last attempt to prevent a further escalation of the conflict, in May 2008 Louis Vuitton invited Plesner again to resolve the conflict out of court, and to persuade her to cease the further use of Louis Vuitton’s intellectual property rights voluntarily. Eventually, Plesner complied with this request in early June 2008. She changed the print on the Simple Living Products, replacing it by including an illustration without the Audra Bag. She also ceased the use in other ways; Plesner removed the illustrations of the Audra Bag from her websites and also removed the various texts on her sites in which Louis Vuitton was dragged through the mire. This seemed to have solved the dispute.<sup>3</sup>

13. To its dismay, Louis Vuitton had to conclude last week that Plesner has *again* started using the picture of the Audra Bag as illustrated above.

---

<sup>3</sup> After Plesner had ceased using the Audra Bag, Louis Vuitton withdrew the proceedings on the merits it had initiated against Plesner before the French court in response to the preliminary relief that had been ordered. A formal settlement agreement was never concluded, because in her letter of 6 June 2008 in which Plesner announced that she would cease her activities at once, she broke off further talks with Louis Vuitton.

14. For example, Plesner has included the picture in a painting that the respondent under 2 (“Galleri Esplanaden”; **Exhibit 5**) has recently been offering for sale (price: 500,000 DKK = €67,000) (**Exhibit 6**). During this art sale exhibition, various other works of Plesner are offered for sale besides this painting. The art sale exhibition will run (in any case) until the end of January 2011.

15. Besides, Plesner has again started selling the Simple Living Products – i.e. the T-shirts and posters –, which contain the picture of the Audra Bag (**Exhibit 7**). As far as Louis Vuitton has been able to ascertain, the Simple Living Products originating from Plesner are at present being sold in any case during the above-mentioned art sale exhibition by the respondent under 2. However, it cannot be excluded that these products are or will also be sold through other channels in Europe (see below).

16. The picture with the Audra Bag is also used by the respondents on various expressions originating from them, for example on the invitations to the art sale exhibition (**Exhibit 8**). Thus, the picture with the Audra Bag of Louis Vuitton is being used as an “eye-catcher” for the exhibition, where, as said, many other works of art of Plesner are offered for sale besides the painting with the Audra Bag.<sup>4</sup>

17. Furthermore, the picture with the Audra Bag of Louis Vuitton is used in various places on Plesner’s websites, including on the website [www.nadiaplesner.com](http://www.nadiaplesner.com), where Plesner offers her products for sale under the name of “Geminink”.<sup>5</sup> As **Exhibit 9** the home page of this site is submitted, i.e. the first page that visitors of Plesner’s website get to see. The picture with the Audra Bag of Louis Vuitton is prominently placed here too.

18. It is clear that the respondents intend to attract the public's attention to their own products by using the intellectual property rights of Louis Vuitton, and in doing so are free riding on the public profile of Louis Vuitton and the media attention which the dispute between Louis Vuitton and Plesner has generated in 2008.<sup>6</sup>

19. There is no ground for this (repeated) unauthorized use of the intellectual property rights of Louis Vuitton. Louis Vuitton therefore respectfully requests the Court to put an end to this use as soon as possible.

### **Infringement of the Rights in Respect of the Design**

20. Below, the Design of Louis Vuitton is depicted (left), and next to it the pattern used by Plesner (right):

The Design of Louis Vuitton	The pattern used by Plesner
-----------------------------	-----------------------------

<sup>4</sup> For example, the following is mentioned in the announcement of the art sale exhibition on the website of the respondent under 2 (last page, **Exhibit 6**): “*The Darfur child of the Simple Living T-shirts lives on in a modern Guernica: Darfurica*”.

<sup>5</sup> Louis Vuitton has meanwhile gathered the information that the picture with the Audra Bag is also posted on the Facebook page of Plesner and on her website [www.nadiaplesnerfoundation.org](http://www.nadiaplesnerfoundation.org).

<sup>6</sup> Indeed this appears in so many words from Plesner's CV, which is posted on her website [www.nadiaplesner.com](http://www.nadiaplesner.com): “*She became famous for the drawing Simple Living in which she portrayed a Darfur child holding a small dog and a caricature of a Louis Vuitton bag as a comment on the media’s prioritizing between the genocide in Darfur and celebrity “news” making the front.*”



21. It is clearly visible that in the pattern used by Plesner, the same multicoloured motif of graphical elements is used as in the Design of Louis Vuitton. In the design of Plesner, this motif consists of the same coloured elements as in the Design of Louis Vuitton, and these elements are arranged in exactly the same regular way in the pattern of Plesner. Besides, a monogram appears (in the same place) with the common letter “L” (LV and SL, respectively), which monogram is designed in the same way both in the Design and in the pattern of Plesner.

22. The pattern of Plesner is basically identical to the Design. In any case, the pattern of Plesner produces the same overall impression as the Design van Louis Vuitton, as envisaged in Article 10 of Council Regulation No 6/2002 on Community designs (EC) (to be referred to below as: the "Community Designs Regulation").

23. As Louis Vuitton has not permitted the respondents to use the infringing pattern or to offer or to put on the market any products bearing the infringing pattern, or to perform any other act reserved by Louis Vuitton in respect of the pattern, the rights with regard to the Design are being infringed, as envisaged in Article 19 (1) of the Community Designs Regulation.

24. The picture showing the infringing pattern is being used in the Netherlands and in the rest of Europe, *inter alia* by its use on the websites of the respondent under 1, which are accessible in the Netherlands and the rest of Europe, and on which Plesner and her sole proprietorship with the Dutch business address are mentioned (cf. **Exhibit 9**). Furthermore, the pattern is used on the above-mentioned products that are being offered and sold by the respondents, including the Simple Living Products and the various expressions that have been disseminated in connection with the art sale exhibition in Denmark.

25. As far as said products are not yet being offered or sold in other European countries, there is a real and concrete threat that this will happen, since Plesner intends to put up the exhibition where the infringing products are being offered and sold also elsewhere in Europe.

26. For this reason, Louis Vuitton has a right to and an interest in an injunction against both respondents, extending to the entire territory for which its Community design was granted.

## Defence of the Respondents

27. Louis Vuitton is not aware of any defence of the respondents with regard to the renewed infringement of the Design.

28. In 2008, Plesner initially took the position that the pattern in her picture did not correspond with the Design of Louis Vuitton. It has been explained above that this position is incorrect. The pattern in Plesner's picture is (basically) identical to the Design of Louis Vuitton, and the use thereof definitely results in infringement of the rights of Louis Vuitton (as the French court has rightly concluded).

29. In addition, Plesner relied on freedom of speech at the time. This defence also holds no water.

30. In general, intellectual property rights are regarded as justified restrictions of the freedom of speech within the meaning of Article 10 (2) of the ECHR: they are (i) prescribed by law, (ii) necessary in a democratic society, and (iii) intended for the protection of the reputation or rights of others.<sup>7</sup> Only in *exceptional cases*, an intellectual property right (except from the restrictions already contained in the relevant IP laws) may be set aside on grounds of the freedom of speech.<sup>8</sup> The strict requirements that apply as a condition for this have not been met in the present case, for a number of reasons.

31. First of all, there is no necessity to use the intellectual property rights of Louis Vuitton.<sup>9</sup> Louis Vuitton has nothing to do with the genocide in Darfur, and therefore it is not necessary (and without reason) to associate Louis Vuitton with this genocide and to use its intellectual property rights for this purpose. Even as far as Plesner's message is that the public would only be interested in "*showbiz elements*" and not in the wrongs going on in the world (cf. paragraph 8 above), there is no necessity to use the intellectual property rights of Louis Vuitton. There are numerous other means to get this message across without using the intellectual property rights of Louis Vuitton; for example, if the choice would be made to maintain the picture of the African small child, the child could be depicted with a large diamond ring, or with a shiny car in the background, or slumping in front of a TV, etc. etc.).

32. Plesner herself proves with the picture of "Miss Size Zero", which she has been using from 2008 after she had ceased the use of the Design, that this message may also be communicated without using the intellectual property rights of Louis Vuitton (cf. **Exhibit 7**, first and third photograph: little girl wearing a crown and sash with the text "Miss Size Zero 2008") There is no necessity or justification whatsoever for the respondents to appropriate the IP rights of Louis Vuitton in order to spread the message chosen by Plesner. The fact that they may also do this without using these rights is already sufficient reason why a reliance on the freedom of speech is precluded.

---

<sup>7</sup> Cf. for example the Court of Amsterdam, 22 December 2009, IER 2010/23 (Nijntje), ground 4.11.

<sup>8</sup> Cf. for example Court of Appeal of The Hague, 4 September 2003, IER 2003/69, ground 8.2

<sup>9</sup> Cf. for example the Court of Amsterdam, 19 January 1994, IER 1994/5, in which the unavoidability of the infringement is stressed. Cf. also the President of the Court of The Hague, 6 December 2000, IER 2001/9, ground 5 ("*The unlawfulness of the free ride is in the impossibility to specify any necessity or justification for the free ride, while on the other hand the chance exists that it will cause damage to the associations of quality which the product champagne evokes.*"). See also President of the Court of Amsterdam, 3 April 2003, LJV AF6846, ground 9.

33. This argument applies *a fortiori* to the renewed infringement, which is the object of the present application to the court. As has been discussed above, Plesner has taken the picture with the Audra Bag out of the closet again after more than two years, and is now using it on a large scale in order to attract attention to her products and work. Plesner is using countless pictures of the child with the Audra Bag (in various sizes) on her Facebook page and, as said, in various places on her website where she offers her art for sale, including on the home page and on the page containing her contact details (**Exhibit 9**). This has nothing to do with freedom of speech, but everything with the unlawful use of the intellectual property rights of Louis Vuitton and the free riding on the name and reputation of Louis Vuitton, with which she has presented herself in 2008, and is now trying to increase attention for her products and work.<sup>10</sup>

34. Moreover, the unauthorized (and unnecessary) use of the Design is also causing serious detriment to the rights, as well as the name and reputation of Louis Vuitton and its products. Although Louis Vuitton has nothing to do whatsoever with the genocide in Darfur, a link is established between Louis Vuitton and its products on the one hand, and the situation in Darfur on the other hand. Naturally, this (unnecessary) use is very damaging to Louis Vuitton and there is no justification for this use through a reliance on the freedom of speech.<sup>11</sup> There was none in 2008, and there certainly is no justification either for the new infringement in 2011.

### **Irreparable Damage and Urgent Interest**

35. It will be clear from the foregoing that the interests of Louis Vuitton in a quick halt to the new infringement are big.

36. In 2008 it took months before Plesner finally ceased her infringing activities (only temporarily, as it now appears). During this period she caused great damage to Louis Vuitton, not only by continuing to use the intellectual property rights of Louis Vuitton without Louis Vuitton's permission and contrary to the decision of the French court, but also by damaging Louis Vuitton in public during that period.

37. This situation is now at risk of repeating itself. As has been said, Plesner recently resumed the infringement by (*inter alia*) offering for sale the same infringing products of which she stated to have ceased the sales in 2008. Furthermore, she is now also using the infringing picture in other products and is using it on a very large scale as an “eye-catcher” for her own products and activities. The exhibition where the infringing products are being sold at present will be open still for a limited time; urgent relief is therefore required in order to protect the rights of Louis Vuitton.

---

<sup>10</sup> Cf. President of the Court of 's-Hertogenbosch, 21 July 2006, LJN: AY4788 (“*An aspect that plays a role in the opinion that the risk of detriment to the trademark may be deemed real, is that the puppet under its brand name Wuppie is very popular and the existence of the song has also attracted a lot of publicity. In view of the popularity and media skills of [the defendant], the song is expected to sway along with the popularity of the Wuppie puppet, and there will be no question of a unique incident.*”). Cf. also the President of the Court of The Hague, 6 December 2000, IER 2001/9, ground 13;

<sup>11</sup> Cf. for example President of the Court of Amsterdam, 16 January 2005, LJN: AR8854 (“*The typical result of the – unnecessary – use of the logo is that detriment is caused to the reputation of the trademark.*”). Court of Haarlem, 26 June 2006, LJN AB2439, ground 5.9

38. Besides, it is not clear to Louis Vuitton in which places and through which channels the products of Plesner are still being offered or sold, or will be so, at present. It is an established fact that this is happening, but to Louis Vuitton it is completely impalpable and beyond control where and when the products and pictures with the Audra Bag will appear. This is another reason why provisionally enforceable immediate relief is of the utmost importance to Louis Vuitton.

39. Finally, immediate action is required in order to limit the damage to the name and reputation of Louis Vuitton as much as possible. Not only its rights are being infringed again knowingly and willingly, but if this continues, the same detrimental situation will arise as in 2008, when it took months before Plesner finally ceased her infringing activities (temporarily) and the damaging of Louis Vuitton's reputation. The urgent relief request will put an end to the infringement at once. Besides, the penalty payments to be attached to the injunction will prevent Plesner from committing new infringements again (and again) in the future.

### **Jurisdiction**

Pursuant to Articles 81 and 82 (1) of the Community Designs Regulation, the Court of The Hague in preliminary relief proceedings has jurisdiction in respect of the defendant under 1, who is domiciled in the Netherlands. Pursuant to Article 90 (3), this jurisdiction extends to all Member States of the European Union.

As for the respondent under 2, jurisdiction arises from Article 6(1) of the EEX Regulation. The cases between the two respondents are (very much) connected, as they concern the same infringing products and infringement of the same (unitary) Community design. In order to prevent that litigation concerning this same Design will be necessary in different countries, which carries the risk of ending up with incompatible judicial decisions, Louis Vuitton has chosen to present the matter in its entirety to the court of the place where the respondent under 1 is domiciled, who is the "source" of the infringing products. This situation is suitable par excellence for the application of Article 6(1) of the EEX, and therefore Louis Vuitton respectfully requests the Court, pursuant to this provision, to impose an injunction also on the respondent under 2 for infringement of the Design in the European Union.

FOR WHICH REASON:

Louis Vuitton applies to Your Honour with the respectful request:

to order the respondents immediately after service of the decision to be rendered on the basis of this application, to cease and desist any infringement, including by the acts specified in paragraphs 14-17 and 23-25 of this application, of the Community design with number 84223-0001 in the European Union;

to order the respondents to pay an immediately claimable penalty of Euro 10,000 (ten thousand Euro) for each violation of the order specified under A, or, at the discretion of Louis Vuitton, of Euro 5,000 (five thousand Euro) for each product involved or for each day, a part of a day counting as one whole day, that the infringement will continue after service of the decision to be rendered on the basis of this application.

to set the time limit as envisaged in Section 1019i of the Rv within which the claim must be brought in the principal action at three months after the decision to be rendered on the basis of this application, or at a time limit to be determined by Your Honour in all fairness;

to declare the court order hereby requested to be provisionally enforceable.

Amsterdam, 27 January 2011

Attorney

---

## **2. The Adjudication**

2.1. Pursuant to Article 81 in conjunction with 82 (1) of the Community Designs Regulation<sup>12</sup>, the Court of The Hague in preliminary relief proceedings has jurisdiction to take note of the ex parte application, because the defendant under 1 is domiciled in the Netherlands. In view of the same infringing acts that are held against the respondents and the unitary nature of Community design law relied upon, the Court in preliminary relief proceedings also has jurisdiction pursuant to Article 6 (1) of the EEX Reg.<sup>13</sup> to take note of the application directed against the respondent under 2.

2.2. The pattern applied by the respondent under 1 is similar to a high degree to the Design of the applicant, and therefore produces the same overall impression. The infringement of Community design law has been made sufficiently plausible.

2.3. In 2008 the respondent under 1 used a work of art to draw attention to the situation in Darfur, which may be described as genocide. The court understands that for this purpose she wished to draw attention to the poignant difference between luxury and affluence on the one hand, and poverty and famine in Darfur on the other hand. She has expressed the aspect of luxury by using the Design of the applicant in her work of art. She has succeeded in her purpose. Partly because of her work of art, the genocide in Darfur came to the attention of the general public in 2008. The impact of the work of art also contributed to the fame of the respondent under 1 as an artist. The applicant argues that the respondent under 1 is now using her work or art as an eye-catcher for her own products and work. As exhibit 8, it has submitted a representation of the use of the work or art as a signboard for her current exhibition in Copenhagen. The illustration used as an eye-catcher, as submitted in exhibit 8, is depicted below.

---

<sup>12</sup> Council Regulation No 6/2002 dated 12 December 2001 on Community designs

<sup>13</sup> Regulation (EC) No 44/2001 of the Council dated 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.



2.4. The Court in preliminary relief proceedings will not express an opinion on whether there was a ground for justification for the unauthorized use of the Design in 2008. In the present situation, and in view of the present use, it is unlikely that there is a ground for justification for the advertising and merchandising for the artist's own work. This entails that the injunction will be granted as requested in the manner set forth below. Considering the arguments put forward in the application in paragraph 35 ff., it is sufficiently plausible that a postponement would cause the applicant irreparable damage.

2.5. The penalty will be moderated and will be allowed in the manner set forth below.

2.6. On grounds of the foregoing, the measures requested can be granted in the manner set forth below.

### **3. The Decision**

#### The Judge in Preliminary Relief Proceedings

3.1 orders each individual respondent immediately after service of this decision to cease and desist any infringement, including by the acts specified in paragraphs 14-17 and 23-25 of the application, of the Community design with number 84223-0001 in the European Union;

3.2 orders each individual respondent to pay an immediately claimable penalty of Euro 5,000 (five thousand Euro) per day that the violation of the order specified in 3.1 continues, or, at the discretion of the Louis Vuitton, of Euro 1,000 (one thousand Euro) for each product involved;

3.3. orders that the penalty shall be subject to moderation by the court, as far as the enforcement thereof would be unacceptable according to standards of reasonableness and fairness, taking into account the extent to which the respondent concerned has complied with the order, the seriousness of the violation and the extent of culpability of the violation;

3.4. rules that the applications shall have this decision, and the exhibits accompanying the application, served on the respondents no later than on 28 January 2011 at 16.00 hours;

3.5. sets the time limit envisaged in Section 1019i Rv at six weeks from the date of this decision;

3.6. rules that, in case the respondents or one of them will wish to claim the repeal of the injunction ordered under 3.1, the judge in preliminary relief proceedings has reserved time for this purpose on 10 February 2011, at 14:00 hours, and further rules that if they wish to use the reserved day and hour, the respondents or the respondent concerned shall notify the registry office of the preliminary relief department hereof as soon as possible, but no later than on 1 February 2011, 16:00 hours, and that they shall have the writ of summons served before the expiry of this term;

3.7. declares this order to be provisionally enforceable;

This decision was rendered by mr. Chr.A.J.F.M. Hensen, and pronounced in open court on 27 January 2011 in the presence of the court registrar.