

Claire Guillemin

Law & Odeur

Fragrance Protection in the Fields of Perfumery
and Cosmetics



Nomos

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und zum Wettbewerbsrecht

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*“Or, jusqu’ici, tous les beaux parfums créés ont été
outrageusement et impunément copiés de multiples fois dès leur
apparition sur le marché.”*
(Edmond Roudnitska, Le Parfum, 1985)

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This Dissertation was accepted by the Bucerius Law School – Hochschule für Rechtswissenschaft – in Hamburg on 6 November, 2013. The final oral exam took place on 8 January, 2014.

Since the time I completed the original draft of this thesis in 2012 there have been a number of developments in the jurisprudence relevant to intellectual property protection for fragrances. I have updated my original draft to reflect these developments, but caution the reader that, given the current volatility of intellectual property law in this lively area, some of the information presented here may soon benefit from additional updating.

I am very happy and grateful to write these introductory, yet valedictory lines. The encouragement, patience and support from many sides have made this academic challenge possible and I would like to take this opportunity to extend my deepest thanks to:

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Table of Abbreviations

Art.	Article
AU	Australia
BGH	Bundesgerichtshof (Germany)
BOA	Board of Appeal
BPI	Beauté Prestige International
BPatG	Bundespatentgericht (Germany)
CA	Cour d'appel (France)
Cass. civ.	Cour de Cassation, chambre civile (France)
Cass. com.	Cour de Cassation, chambre commerciale (France)
CEO	Chief Executive Officer
Ch.	Chambre (Chamber)
CPI	Code de la Propriété Intellectuelle
CSUSA Journal	Journal of the Copyright Society of the USA
CTM	Community Trade Mark
D.	Recueil Dalloz
DE	Germany
EC	European Community
ECJ	European Court of Justice
e.g.	for example
EIPR	European Intellectual Property Review
EP	European Patent
EPC	European Patent Convention (Munich Convention)
EPO	European Patent Office
EU	European Union
FR	France
Gaz. Pal.	Gazette du Palais
GC	Gas Chromatography
GRUR	Gewerblicher Rechtsschutz und Urheberrecht
GRUR Int.	Gewerblicher Rechtsschutz und Urheberrecht, internationaler Teil
HPLC	High Performance Liquid Chromatography

Table of Abbreviations

HR	Hoge Raad der Nederlanden (Netherlands)
IIC	International Review of Intellectual Property and Competition Law
IDEA	IDEA: The Intellectual Property Law Review
IFF	International Flavors and Fragrances
INPI	Institut National de la Propriété Industrielle (France)
IR	Infrared
ISIPCA	Institut Supérieur du Parfum de la Cosmétique et de l'Aromatique Alimentaire
JCP	Juris-Classeur Périodique (La Semaine Juridique)
JDI	Journal du Droit International
LMZ	Lebensmittel Zeitung
LPA	Les Petites Affiches
MarkenR	MarkenRecht Zeitschrift
MarqIntellPropLRev	Marquette Intellectual Property Law Review
MS	Mass Spectrometry
MitttdtPatA.	Mitteilungen der deutschen Patentanwälte
No.	Number
NMR	Nuclear Magnetic Resonance
NZ	New Zealand
OHIM	Office for Harmonization in the Internal Market
p. /pp.	Page /pages
para.	Paragraph
P&F	Perfumer & Flavorist Magazine
PIBD	Propriété Industrielle Bulletin Documentaire
Propr. Intell.	Propriétés Intellectuelles
RDPI	Revue du Droit de la Propriété Intellectuelle
RIDA	Revue Internationale de Droit d'Auteur
RIPIA	Revue Internationale de la Propriété Industrielle et Artistique
RJJ	Revue Jurassienne de Jurisprudence
RLDC	Revue Lamy de Droit Civil
RRJ	Revue de la Recherche Juridique
RSJ	Revue Suisse de Jurisprudence
SCF	Super Critical Fluid
SPME	Solid Phase Micro Extraction

Table of Abbreviations

T.com	Tribunal de commerce (France)
TGI	Tribunal de grande instance (France)
TMR	The Trademark Reporter
TTAB	Trademark Trial and Appeal Board (United States)
USPTO	United States Patent and Trademark Office
UK	United Kingdom
US	United States
UV	Ultraviolet
v.	Versus
Vol.	Volume
WIPO	World Intellectual Property Organisation
WIPO Mag.	World Intellectual Property Organisation Magazine
WiWo	Wirtschaftswoche
WRP	Wettbewerb in Recht und Praxis

