— annul: (i) Article 1(2)(c) of the Decision insofar as it found that Panasonic participated in the CPT cartel from 15 July 1999 to 10 February 2003; and/or (ii) Articles 1(2)(c) and (e) of the Decision in respect of the period from 1 April 2003 to 12 June 2006;

— reduce the fine imposed by Article 2(2)(f) of the Decision; and/or annul and/or further reduce the fines imposed on Panasonic and MTPD by Articles 2(2)(h) and 2(2)(i) of the Decision as appropriate, from the levels of those fines fixed by the Judgment at EUR 82 826 000 and EUR 7 530 000 respectively; further or alternatively

— remit the case to the General Court for further consideration in accordance with the law;

— order the European Commission to pay the costs of Panasonic arising from the present appeal.

Pleas in law and main arguments

1. First plea: The General Court incorrectly found that the Commission had discharged its burden of setting out in the statement of objections the essential elements against Panasonic, including the basis upon which it was alleged that Panasonic knew about the overall CPT cartel. The General Court erred in law by holding that it is sufficient for the Commission to set out one of the essential elements of the infringement implicitly but necessarily in the statement of objections.

2. Second plea: The General Court should afford Panasonic and MTPD the same relief as may be granted to Toshiba Corporation ('Toshiba') in any appeal that it may bring in relation to the period of time for which Toshiba was found jointly and severally liable with Panasonic and MTPD. In T-104/13 Toshiba v Commission, the General Court held that any annulment or alteration of the Decision in relation to the imputation of the unlawful conduct of the joint venture MTPD to Panasonic also benefitted Toshiba. Consequently, Panasonic contends that, should Toshiba obtain an order from this Court setting aside the judgment of the General Court insofar as it did not annul the Decision and/or annul or reduce the fine in relation to the period of time for which Toshiba was found jointly and severally liable for an infringement with Panasonic and MTPD, the General Court would also have erred in not granting Panasonic and MTPD the same relief as ought to have been granted to Toshiba.

Appeal brought on 18 November 2015 by Samsung SDI Co. Ltd, Samsung SDI (Malaysia) Bhd against the judgment of the General Court (Third Chamber) delivered on 9 September 2015 in Case T-84/13: Samsung SDI Co. Ltd, Samsung SDI (Malaysia) Bhd v European Commission

(Case C-615/15 P)

(2016/C 027/28)

Language of the case: English

Parties

Appellants: Samsung SDI Co. Ltd, Samsung SDI (Malaysia) Bhd (represented by: M. Struys, avocat, L. Eskenazi, avocate, A. Fall, advocate, C. Erol, avocate)

Other party to the proceedings: European Commission

Form of order sought

The appellants claim that the Court should:

— set aside the judgment of the General Court of 9 September 2015 in Case T-84/13, Samsung SDI Co. Ltd, Samsung SDI Germany GmbH and Samsung SDI (Malaysia) Bhd v. European Commission;

— As a consequence, to annul Articles 2.1 (b) and 2.2(b) of the Commission's decision insofar as they concern the Appellants and to reduce the relevant fines;

— To order the European Commission to pay the costs at first instance and for the present appeal.

Pleas in law and main arguments

In support of the appeal, the Appellants rely on four pleas in law. The first two concern the CPT cartel and the last two — the CDT cartel.

First plea: the General Court failed to address SDI's plea according to which sales of non-cartelized products should have been excluded from the CPT cartel fine calculation. Even assuming that the General Court's reasoning regarding the existence of a single and continuous infringement offers an implicit justification for the rejection of SDI's plea (quod non), such implicit justification violates the Commission's Guidelines on the method of setting fines imposed pursuant to Article 23(2)(a) of Regulation No 1/2003 ([1]) (the Fining Guidelines).

Second plea: as regards the determination of the end date of the CPT cartel, the General Court dismissed without any valid reasons SDI's plea that collusion requires the involvement of at least two undertakings, and further violated Article 101 TFEU insofar as the judgment concluded that SDI's participation in the CPT cartel lasted, alone, until 15 November 2006. Further, the General Court violated the principle of equal treatment insofar as it refused to reduce the fine imposed on SDI.

Third plea: the General Court made an error in law by taking into account in the calculation of the CDT cartel fine SDI's sales to Samsung Electronics Corporation (SEC). The General Court misapplied the concept of EEA sales under the Fining Guidelines insofar as it failed to determine the place where competition takes place.

Fourth plea: the General Court committed an error of law in assessing the application of the Leniency Notice, which resulted in a failure to grant SDI a 50 % fine reduction in relation to the CDT cartel. The General Court's conclusions regarding the CPT cartel are legally irrelevant in the context of the CDT cartel. Furthermore, the General Court misapplied the Leniency Notice and erred in upholding the Commission's finding that the lack of description of the market sharing aspect of the infringement by SDI in its reply to the Statement of Objections could, in itself, impact the assessment of SDI's cooperation during the administrative procedure.

([1]) Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty OJ L 1, p. 1.

Appeal brought on 19 November 2015 by Koninklijke Philips Electronics NV against the judgment of the General Court (Third Chamber) delivered on 9 September 2015 in Case T-92/13: Koninklijke Philips Electronics NV v European Commission

(Case C-622/15 P)

(2016/C 027/29)

Language of the case: English

Parties

Appellant: Koninklijke Philips Electronics NV (represented by: E. Pijnacker Hordijk, J. K. de Pree, S. Molin, advocaten)