COURT OF FIRST INSTANCE

Judgment of the Court of First Instance (First Chamber) of 15 March 2006 — BASF AG v Commission

(Case T-15-02) [1]

(Competition — Cartels in the vitamin products sector — Rights of the defence — Guidelines on the method of setting fines — Determination of the starting amount of the fine — Deterrent effect — Aggravating circumstances — Role of leader or instigator — Cooperation during the administrative procedure — Professional secrecy and principle of sound administration)

(2006/C 108/25)

Language of the case: English

Parties

Applicant(s): BASF AG (Ludwigshafen, Germany) (represented by: N. Levy, J. Temple-Lang, Solicitor, R. O'Donoghue, Barrister and C. Federsen, Solicitor)

Defendant(s): Commission of the European Communities (represented by: R. Wainwright and L. Pignataro-Nolin, Agents)

Application for

APPLICATION for annulment or reduction of the fines imposed on the applicant by Article 3(b) of Commission Decision 2003/2/EC of 21 November 2001 relating to a proceeding pursuant to Article 81 of the EC Treaty and Article 53 of the EEA Agreement (Case COMP/E-1/37.512 — Vitamins) (OJ 2003 L 6, p. 1),

Operative part of the judgment

1) *Sets the amount of the fines imposed on the applicant in respect of the infringements relating to vitamins C and D3, beta-carotene and carotinoids by Article 3(b) of Commission Decision 2003/2/EC of 21 November 2001 relating to a proceeding under Article 81 of the EC Treaty and Article 53 of the EEA Agreement (Case COMP/E-1/37.512 — Vitamins) as follows:*

   — *infringement relating to vitamin C: EUR 10,875 million;*

   — *infringement relating to vitamin D3: EUR 5,6 million;*

   — *infringement relating to beta-carotene: EUR 16 million;*

   — *infringement relating to carotinoids: EUR 15,5 million;*

2) *Dismisses the remainder of the application;*

3) *Orders the applicant to bear four fifths of its own costs and four fifths of the costs incurred by the Commission and the Commission to bear one fifth of its own costs and to pay one fifth of the costs incurred by the applicant.*

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[1] OJ C 109, 4.5.2002

Judgment of the Court of First Instance (Fourth Chamber) of 15 March 2006 — Daiichi Pharmaceutical v Commission

(Case T-26/02) [1]

(Competition — Cartels in the vitamin products sector — Guidelines on the method of setting fines — Determination of the starting amount of the fine — Attenuating circumstances — Leniency Notice)

(2006/C 108/26)

Language of the case: English

Parties

Applicant: Daiichi Pharmaceutical Co. Ltd (Tokyo, Japan) (represented by: J.Buhart and P.-M.Louis, lawyers)

Defendant: Commission of the European Communities (represented by: R.Wainwright and L.Pignataro-Nolin, agents)

Re:

APPLICATION for annulment or reduction of the fine imposed on the applicant by Article 3(f) of Commission Decision 2003/2/EC of 21 November 2001 relating to a proceeding pursuant to Article 81 of the EC Treaty and Article 53 of the EEA Agreement (Case COMP/E-1/37.512 — Vitamins) (OJ 2003 L 6, p. 1),

Operative part of the judgment

The Court:

1) *Reduces to EUR 18 000 000 the fine imposed on the applicant by Article 3(f) of Commission Decision 2003/2/EC of 21 November 2001 relating to a proceeding pursuant to Article 81 of the EC Treaty and Article 53 of the EEA Agreement (Case COMP/E-1/37.512 — Vitamins);*

2) *Dismisses the remainder of the application;*

3) *Orders the applicant to bear four fifths of its own costs and to pay four fifths of the costs incurred by the Commission and the Commission to bear one fifth of its own costs and to pay one fifth of the costs incurred by the applicant.*

(1) OJ C 97, 30.4.2002

Judgment of the Court of First Instance of 16 March 2006 — Telefon & Buch v OHIM

(Case T-322/03) (1)

(Community trade mark — Admissibility of the action — Unforeseeable circumstances — Application for a declaration of invalidity — Article 51(1)(a) of Regulation (EC) No 40/94 — Word mark WEISSE SEITEN — Absolute grounds for refusal — Article 7(1)(b) to (d) of Regulation No 40/94)

(2006/C 108/27)

Language of the case: German

Parties:

Applicant: Telefon & Buch Verlagsgesellschaft mbH (Salzburg, Austria) (represented by: H. Zeiner and M. Baldares del Barco, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: G.Schneider, Agent)

Other party or parties to the proceedings before the Board of Appeal of OHIM, intervener before the Court of First Instance: Herold Business Data GmbH & Co.KG (Mödling, Austria) (represented by: A. Lensing-Kramer, C. von Nussbaum and U.Reese, lawyers)

Action

brought against the decision of the First Board of Appeal of OHIM of 19 June 2003 (Joined Cases R 580/2001-1 and R 592/2001-1) relating to invalidity proceedings between Herold Business Data AG and Telefon & Buch Verlagsgesellschaft mbH,

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders the applicant to pay the costs, except those incurred by the intervener;*

3. *Orders the intervener to bear its own costs.*

(1) OJ 2003 C 6, of 8.1.2005

Judgment of the Court of First Instance of 15 March 2006 — Herbillon v Commission

(Case T-411/03) (1)

(Officials — Appointment — Revision of the classification in grade — Article 31(2) of the Staff Regulations)

(2006/C 108/28)

Language of the case: French

Parties

Applicant: Georges Herbillon (Arlon, Belgium) (represented by: N. Lhoëst and E. De Schietere de Lophem, lawyers)

Defendant: Commission of the European Communities (represented by: G. Berscheid and C. Berardis-Kayser, acting as Agents)

Re:

Application for, firstly, annulment of the Commission's decision of 20 December 2002, setting the applicant's final classification at Grade A7, step 3, and, secondly, annulment of the Commission's decision of 29 July 2003, rejecting the applicant's complaint.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders each party to bear its own costs.*

(1) OJ C 35, 7.2.2004.