

## JUDGMENT OF THE COURT OF FIRST INSTANCE

of 3 December 2003

**in Case T-208/01: Volkswagen Ag v Commission of the European Communities** <sup>(1)</sup>

*(Competition — Distribution of motor vehicle — Article 81(1) EC Price agreement — Meaning of agreement — Proof of the existence of an agreement)*

(2004/C 71/42)

*(Language of the case: German)*

In Case T-208/01, Volkswagen AG, established in Wolfsburg (Germany), represented by R. Bechtold, lawyer, v Commission of the European Communities (Agent: W. Mölls): Application for annulment of Commission Decision 2001/711/EC of 29 June 2001 relating to a proceeding under Article 81 of the EC Treaty (Case COMP/F-2/36.693 Volkswagen) (OJ 2001 L 262, p. 14) or, in the alternative, reduction of the amount of the fine imposed on the applicant, the Court of First Instance (Fourth Chamber), composed of: V. Tiili, President, P. Mengozzi and M. Vilaras, Judges; D. Christensen, Administrator, for the Registrar, has given a judgment on 3 December 2003, in which it:

1. *Annuls Commission Decision 2001/711/EC of 29 June 2001 relating to a proceeding under Article 81 of the EC Treaty (Case COMP/F-2/36.693 — Volkswagen);*
2. *Orders the Commission to pay the costs.*

<sup>(1)</sup> OJ C 331 of 24.11.2001.

## JUDGMENT OF THE COURT OF FIRST INSTANCE

of 3 December 2003

**in Case T-16/02: Audi AG v Office for Harmonisation in the Internal Market (Trade Marks and Designs)** <sup>(1)</sup>

*(Community trade mark — Regulation (EC) No 40/94 — Absolute grounds for refusal — Descriptive mark — Distinctive character acquired through use — Word mark TDI — Right to be heard — Scope of the duty to state reasons — Consequences of a breach of the duty to state reasons)*

(2004/C 71/43)

*(Language of the case: German)*

In Case T-16/02, Audi AG, established in Ingolstadt (Germany), represented by L. von Zumbusch, lawyer, v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (Agents: A. von Mühlendahl and G. Schneider): Action against the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 8 November 2001 (Case R 652/2000-1), as rectified by decision of 19 November 2001, on the application for registration of the word mark TDI as a Community trade mark, the Court of First Instance (Second Chamber), composed of: N.J. Forwood, President, J. Pirrung and A.W.H. Meij, Judges; D. Christensen, Administrator, for the Registrar, has given a judgment on 3 December 2003, in which it:

1. *Dismisses the action;*
2. *Orders the applicant to bear three quarters of its own costs and pay three quarters of those incurred by the Office for Harmonisation in the Internal Market (Trade Marks and Designs);*
3. *Orders the Office for Harmonisation in the Internal Market (Trade Marks and Designs) to bear one quarter of its own costs and pay one quarter of those incurred by the applicant.*

<sup>(1)</sup> OJ C 97 of 20.4.2002.