

Concerning the bilateral cooperation between Prym Fashion and the applicants YKK Stocko Fasteners and YKK Corp., the applicants contend that the Commission was incorrect to assume that the cooperation was of a worldwide dimension.

Concerning the tripartite cooperation between Coats, Prym and the applicant YKK Holding Europe, the applicants consider:

- that the Commission failed to prove to the requisite standard that the discussions about harmonising prices at the five zip fastener meetings in 1998 and 1999 constitute an agreement or concerted practice in violation of Article 81 EC;
- that if the discussions at the five zip fastener meetings in 1998 and 1999 were to constitute an infringement of Article 81 EC, the applicants should have been granted a reduction of fines for their cooperation with the Commission under the Commission's Leniency Program;
- that these discussions are not sufficient to be categorised as a 'very serious' infringement;
- that the fine imposed by the Commission is disproportionate to the nature of any possible infringement; and
- that the Commission failed to consider the impact of such an infringement on the EC market.

(<sup>4</sup>) 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 (O) 2003 L 1, p. 1).

**Action brought on 7 December 2007 — Ecolean Research & Development v OHIM**

(Case T-452/07)

(2008/C 51/84)

*Language in which the application was lodged: Swedish*

**Parties**

*Applicant:* Ecolean Research & Development A/S (Copenhagen, Denmark) (represented by L.-E. Ström, lawyer)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)

**Form of order sought**

- Referral back to the Board of Appeal for a fresh examination.

**Pleas in law and main arguments**

*Community trade mark concerned:* Word mark CAPS for goods in Classes 7, 16 and 17 — application No 4 957 131

*Decision of the Examiner:* Rejection of the application

*Decision of the Board of Appeal:* Dismissal of the appeal

*Pleas in law:* The Board of Appeal infringed essential procedural requirements and Council Regulation No 40/94, in part by failing to declare that the appeal should have been translated into the applicant's first language, Swedish, and in part by upholding the appeal and continuing to correspond in English. The Board of Appeal thus failed to comply with the principles of the protection of legitimate expectations and of the right to equal treatment.

**Action brought on 7 December 2007 — Prym and Others v Commission**

(Case T-454/07)

(2008/C 51/85)

*Language of the case: German*

**Parties**

*Applicants:* William Prym GmbH & Co KG (Stolberg, Germany), Prym Inovon GmbH & Co KG (Stolberg, Germany), EP Group S. A. (Comines-Warnton, Belgium) (represented by: H.-J. Niemeyer and C. Herrmann, lawyers)

*Defendant:* Commission of the European Communities

**Form of order sought**

- Annul the decision of the defendant of 19 September 2007, in so far as it is addressed to the applicants;
- In the alternative, reduce the fines imposed on the applicants under Article 2 of the decision to a reasonable amount;
- Order the defendant to pay the costs.

**Pleas in law and main arguments**

The applicants contest Commission Decision C(2007) 4257 final of 19 September 2007 in Case COMP/E-1/39.168 — PO/Hard Haberdashery — Fasteners. Pursuant to that decision, companies in the Prym group were fined for infringement of Article 81 EC in respect of three separate infringements in the hard haberdashery sector, whereas the Commission found a total of four infringements.

The applicants base their action on eleven pleas in law.

In connection with the allegation of multilateral cooperation in relation to 'other fasteners' and attaching machines, it is submitted as follows:

- Infringement of Article 23(2) of Regulation (EC) No 1/2003 (<sup>1</sup>), as one set of actions was split up into two separate infringements;