Judgment of the Court of First Instance of 18 June 2008 — Hoechst v Commission

(Case T-410/03) ([1])

(Competition — Agreements, decisions and concerted practices — Market in sorbates — Decision finding an infringement of Article 81 EC — Calculation of the amount of the fines — Obligation to state the reasons on which the decision is based — Gravity and duration of the infringement — Aggravating circumstances — Principle non bis in idem — Cooperation during the administrative procedure — Access to the file — Duration of the procedure)

(2008/C 197/31)

Language of the case: German

Parties

Applicant: Hoechst GmbH, formerly Hoechst AG (Frankfurt am Main, Germany) (represented initially by M. Klusmann and V. Turner, then by M. Klusmann, V. Turner and M. Rüba, and finally by M. Klusmann and V. Turner, lawyers)

Defendant: Commission of the European Communities (represented initially by W. Mölls, O. Beynet and K. Mojzesowicz, and subsequently by W. Mölls and K. Mojzesowicz, Agents, assisted by A. Böhlke, lawyer)

Re:

Application for annulment, so far as the applicant is concerned, of Commission Decision 2005/493/EC of 1 October 2003 relating to a proceeding under Article 81 [EC] and Article 53 of the EEA Agreement against Chisso Corporation, Daicel Chemical Industries Ltd, Hoechst AG, The Nippon Synthetic Chemical Industry Co. Ltd and Ueno Fine Chemicals Industry Ltd (Case No COMP/E 1/37.370 — Sorbates) (Summary in OJ 2005 L 182, p. 20), or, in the alternative, a reduction to an appropriate level of the amount of the fine imposed on the applicant.

Operative part of the judgment

The Court:

1. *Sets the amount of the fine imposed on Hoechst GmbH at EUR 74.25 million.*

2. *Dismisses the remainder of the action.*

3. *Orders the parties to bear their own costs.*

([1]) OJ C 59, 6.3.2004.

Judgment of the Court of First Instance of 17 June 2008 — El Corte Inglés v OHIM — Abril Sánchez and Ricote Saugar (Boomerang^{TV})

(Case T-420/03) ([1])

(Community trade mark — Opposition proceedings — Application for registration of the Community figurative mark Boomerang^{TV} — Earlier national and Community word and figurative marks BOOMERANG and Boomerang — Relative grounds for refusal — No likelihood of confusion — No well-known trade mark within the meaning of Article 6bis of the Paris Convention — No damage to reputation — Failure to produce evidence before the Opposition Division of the existence of certain earlier trade marks or translations thereof — Production of evidence for the first time before the Board of Appeal — Article 8(1)(b) and (2)(c), Article 8(5) and Article 74(2) of Regulation EC No 40/94 — Rule 16(2) and (3), Rule 17(2) and Rule 20(2) of Regulation (EC) No 2868/95)

(2008/C 197/32)

Language of the case: Spanish

Parties

Applicant: El Corte Inglés SA (Madrid, Spain) (represented by: J. Rivas Zurdo and E. López Leiva, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: I. de Medrano Caballero, Agent)

Other parties to the proceedings before the Board of Appeal of OHIM intervening before the Court of First Instance: José Matías Abril Sánchez and Pedro Ricote Saugar (Madrid) (represented by: J.M. Iglesias Monravá, lawyer)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 1 October 2003 (Case R 88/2003-2), relating to opposition proceedings between El Corte Inglés SA, and J.M. Abril Sánchez and P. Ricote Saugar.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders El Corte Inglés SA to pay the costs.*

([1]) OJ C 47, 21.2.2004.