

Pleas in law and main arguments

Registered Community design subject of the application for a declaration of invalidity: A design registered for 'watches'

Proprietor of the Community design: The applicant

Party requesting the declaration of invalidity of the Community design: The other party to the proceedings before the Board of Appeal

Decision of the Invalidity Division: Declared the contested Community design invalid

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Articles 4, 5 and 6 of Council Regulation No 6/2002, as the Board of Appeal wrongly considered the challenged design as lacking individual character and as not being new; infringement of Article 61(2) of Council Regulation No 6/2002 as the Board of Appeal has not correctly evaluated the applicant's arguments and evidences submitted in the course of the proceedings, misinterpreted the freedom of the designer and based its decision on a false appreciation, thereby misusing its power.

Action brought on 18 February 2010 — IRO v Commission

(Case T-69/10)

(2010/C 100/90)

Language of the case: Italian

Parties

Applicant: Industrie Riunite Odolesi SpA (IRO) (Brescia, Italy) (represented by: A. Giardina, lawyer, P. Tomassi, lawyer)

Defendant: European Commission

Form of order sought

— Annul Commission Decision C(2009) 7492 final of 30 September 2009 ('the contested decision');

— In the alternative, cancel or reduce the fine imposed by the contested decision;

— Order the Commission to pay the costs.

Pleas in law and main arguments

The pleas in law and main arguments are similar to those put forward in Case T-55/10 *SP v Commission*.

In particular, the applicant alleges:

— Infringement of the law and misuse of powers, in so far as the Commission adopted the contested decision by which the applicant was penalised for participating in an alleged price-fixing cartel, without examining all the supporting documents because the annexes relating to the price tables were not included;

— Infringement of the procedural rules laid down in Regulation (EC) No 1/2003,⁽¹⁾ in so far as, following the annulment by the Court of First Instance of Decision C(2002) 5087 final of 17 December 2002, the Commission adopted the contested decision without carrying out any procedural steps, such as sending a statement of objections to the parties and/or hearing the parties, or involving the national authorities, and accordingly the entire procedure followed by the Commission was incomplete, inconsistent and unlawful and the rights of the defence of the undertakings penalised were infringed;

— Inadequate investigations and reasoning, in so far as the Commission did not correctly assess the information, which emerged during the investigation, concerning the size of the relevant market and the effects of the alleged cartel.

In the alternative, the applicant claims that the Court should cancel or reduce the fine imposed by the contested decision.

⁽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 2003 L 1, p. 1).

Action brought on 19 February 2010 — Feralpi Holding SpA v European Commission

(Case T-70/10)

(2010/C 100/91)

Language of the case: Italian

Parties

Applicant: Feralpi Holding SpA (Brescia, Italy) (represented by: G. Roberti, avvocato, I. Perego, avvocato)