

GENERAL COURT

Judgment of the General Court (Fourth Chamber) of 8 March 2011 — World Wide Tobacco España v Commission

(Case T-37/05) ⁽¹⁾

(Competition — Agreements, decisions and concerted practices — Spanish market for the purchase and first processing of raw tobacco — Decision finding an infringement of Article 81 EC — Price-fixing and market-sharing — Fines — Deterrent effect — Equal treatment — Mitigating circumstances — Maximum limit of 10 % of turnover — Cooperation)

(2011/C 120/27)

Language of the case: Spanish

Parties

Applicant: World Wide Tobacco España SA (Madrid, Spain) (represented by: initially M. Odriozola Alén, M. Marañón Hermoso and A. Emch, then M. Odriozola Alén, M. Barrantes Diaz and A. João Vide, lawyers)

Defendant: European Commission (represented by: F. Castillo de la Torre and É. Gippini Fournier, agents)

Re:

Application for a reduction of the fine imposed on the applicant in the Commission decision C(2004) 4030 final of 20 October 2004 relating to a proceeding under Article 81(1) [EC] (Case COMP/C.38.238/B.2 — Raw tobacco — Spain).

Operative part of the judgment

The Court:

1. sets the amount of the fine imposed on World Wide Tobacco España SA in Article 3 of the Commission decision C(2004) 4030 final of 20 October 2004 relating to a proceeding under Article 81(1) [EC] (Case COMP/C.38.238/B.2 — Raw tobacco — Spain) at EUR 1 579 500;
2. dismisses the action as to the remainder;
3. orders World Wide Tobacco España to bear three quarters of its own costs and three quarters of the costs incurred by the Commission, and orders the Commission to bear one quarter of its own costs and one quarter of the costs incurred by World Wide Tobacco España.

⁽¹⁾ OJ C 82, of 2.4.2005.

Judgment of the General Court of 9 March 2011 — Longevity Health Products v OHIM — Performing Science (5 HTP)

(Case T-190/09) ⁽¹⁾

(Community trade mark — Invalidity proceedings — Community word mark 5 HTP — Absolute ground of refusal — Signs or indications which have become customary — Article 7(1)(d) of Regulation (EC) No 207/2009 — Distinctive character acquired by use — Article 52(2) of Regulation No 207/2009)

(2011/C 120/28)

Language of the case: German

Parties

Applicant: Longevity Health Products Inc. (Nassau, Bahamas) (represented by: J.E. Korab, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM: Performing Science LLC (Las Vegas, Nevada, United States) (represented by: D. Plasser, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 21 April 2009 (Case R 595/2008-4) relating to invalidity proceedings between Performing Science LLC and Longevity Health Products Inc.

Operative part of the judgment

The Court:

1. The action is dismissed;
2. Longevity Health Products Inc. is ordered to pay the costs.

⁽¹⁾ OJ C 167, 18.7.2009.