

7. Seventh plea in law: infringement of Article 23(2)(a) and (3) of Regulation (EC) No 1/2003 in conjunction with paragraphs 19, 20 and 25 of Guidelines on the method of setting fines⁽³⁾ and the principle of equal treatment

By this plea in law the applicants claim that, for all cartels covered by the decision imposing the fine and for all relevant undertakings, a uniform share of turnover of 16 % for determining the basic amount and a uniform hardcore additional amount of 16 % were fixed, to the detriment of the applicants, despite the fact that both the structures of the individual cartels and the individual participation of the undertakings differed greatly from one another.

⁽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).

⁽²⁾ Commission notice on immunity from fines and reduction of fines in cartel cases (OJ 2002 C 45, p. 3).

⁽³⁾ Guidelines on the method of setting fines imposed pursuant to Article 23(2)(a) of Regulation No 1/2003 (OJ 2006 C 210, p. 2).

Action brought on 3 November 2015 — Chic Investments v OHIM (eSMOKINGWORLD)

(Case T-617/15)

(2016/C 016/51)

Language in which the application was lodged: Polish

Parties

Applicant: Chic Investments sp. z o.o. (Poznań, Poland) (represented by: K. Jarosiński, lawyer)

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

Details of the proceedings before OHIM

Trade mark at issue: Figurative mark containing the word element 'eSMOKINGWORLD' — Application for registration No 12 581 741

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 25 June 2015 in Case R 3227/2014-5

Form of order sought

The applicant claims that the Court should:

- annul in its entirety the decision of the Fifth Board of Appeal of the Office for Harmonisation in the Internal Market of 25 June 2015;
- order OHIM to pay the costs of the proceedings, including those of the proceedings before the Board of Appeal.

Pleas in law

- Breach of Article 7(1)(b) and (c) of Regulation No 207/2009;
 - Breach of Article 75 of Regulation No 207/2009.
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