

C/2024/774

22.1.2024

Action brought on 1 December 2023 — Intel Corporation v Commission**(Case T-1129/23)**

(C/2024/774)

*Language of the case: English***Parties**

Applicant: Intel Corporation, Inc. (Wilmington, Delaware, United States) (represented by: J.-F. Bellis and B. Meyring, lawyers, and D. Beard and J. Williams, Barristers-at-law)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul (in whole or in part) the Commission Decision C(2023) 5914 final of 22 September 2023 in Case AT.37990 — Intel (the ‘Contested Decision’);
- consequently, or in the alternative, annul or reduce the fine imposed on Intel in the exercise of the Court’s unlimited jurisdiction; and
- order the Commission to pay Intel’s costs and expenses in connection with these proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law.

1. First plea in law, alleging that the level of the fine is disproportionate and unlawful since: (i) it is disproportionate in light of the findings in T-286/09 RENV Intel v Commission EU:T:2022:19, the nature, scope and extent of the Article 1(f)-(h) Commission Decision C(2009) 3726 of 13 May 2009, and the annulment of Article 1(a)-(e) of Commission Decision C(2009) 3726 of 13 May 2009; (ii) the Commission has failed to recognise the radical change in the nature of any new single and continuous infringement formed only of the conduct in Article 1(f)-(h) of Commission Decision C(2009) 3726 of 13 May 2009, and its implication for the reimposition and calculation of any fine; (iii) the Commission has failed to recognise the different and lower cumulative impact of the conducts found in Article 1(f)-(h) of Commission Decision C(2009) 3726 of 13 May 2009; (iv) the Commission has failed to take into account, at all or sufficiently, geographical and jurisdictional matters in the imposition and calculation of the fine; (v) the Commission’s approach to the calculation of the relevant value of sales for the purposes of setting the basic amount of the fine is not in keeping with EU law on the calculation of fines, contributes to the manifestly disproportionate outcome, and undermines the proper meaning and effect of the General Court judgment in T-286/09 RENV Intel v Commission; (vi) the Commission has applied an insignificant reduction to the gravity factor in its calculation of the fine; and/or (vii) the Commission has failed to take into account, at all or sufficiently, certain mitigating factors.
2. Second plea in law, alleging that the Commission has infringed essential procedural requirements by (a) failing to provide reasons in the Contested Decision and/or in correspondence within the administrative proceedings leading to such Decision; and/or (b) failing to provide Intel an opportunity to properly exercise its rights of defence.
3. Third plea in law, alleging that the Commission has failed to consider whether it had jurisdiction to make findings and/or impose a fine in relation to the conduct referred to in Article 1(g)-(h) of Commission Decision C(2009) 3726 of 13 May 2009. Had it done so it should have concluded that it had no jurisdiction.