

Judgment of the General Court of 28 April 2010 — BST v Commission

(Case T-452/05) ⁽¹⁾

(Competition — Agreements, decisions and concerted practices — European market in industrial thread — Decision finding an infringement of Article 81 EC and Article 53 of the EEA Agreement — Fines — Gravity of the infringement — Mitigating circumstances — Cooperation — Non-contractual liability — Disclosure of confidential information — Damage — Causal link)

(2010/C 148/43)

Language of the case: Dutch

Parties

Applicant: Belgian Sewing Thread (BST) NV (Deerlijk, Belgium) (represented by: H. Gilliams and J. Bocken, lawyers)

Defendant: European Commission (represented by: A. Bouquet and K. Mojzesowicz, acting as Agents)

Re:

Application for (i) partial annulment of Commission Decision C(2005) 3452 of 14 September 2005 relating to a proceeding under Article 81 [EC] and Article 53 of the EEA Agreement (Case COMP/38.337 — PO/Thread), as amended by Commission Decision C(2005) 3765 of 13 October 2005 and, in the alternative, reduction of the fine imposed on the applicant by that decision and (ii) an order that the Commission pay compensation, on the basis of the non-contractual liability of the European Community, for the loss which the applicant has suffered

Operative part of the judgment

The Court:

1. Fixes at EUR 856 800 the fine imposed on Belgian Sewing Thread (BST) NV by Article 2 of Commission Decision C(2005) 3452 of 14 September 2005 relating to a proceeding under Article 81 [EC] and Article 53 of the EEA Agreement (Case COMP/38.337 — PO/Thread);

2. For the rest, dismisses the application for annulment;

3. Dismisses the claim for damages.

4. Orders BST to bear 90 % of its own costs and to pay 90 % of the costs incurred by the European Commission, and the European Commission to bear 10 % of its own costs and to pay 10 % of the costs incurred by BST.

⁽¹⁾ OJ C 60, 11.3.2006.

Judgment of the General Court of 28 April 2010 — Gütermann and Zwicky v Commission

(Joined Cases T-456/05 and T-457/05) ⁽¹⁾

(Competition — Agreements, decisions and concerted practices — European market in industrial thread — Decision finding an infringement of Article 81 EC and Article 53 of the EEA Agreement — Fines — Gravity of the infringement — Actual impact on the market — Duration of the infringement — Mitigating circumstances — Cooperation during the administrative procedure — Proportionality — Guidelines on the method of setting fines)

(2010/C 148/44)

Language of the case: German

Parties

Applicants: Gütermann AG (Gutach-Breisgau, Germany) (Case T-456/05); and Zwicky & Co. AG (Wallisellen, Switzerland) (Case T-457/05) (represented by: J. Burrichter, B. Kasten and S. Orlikowski-Wolf, lawyers)

Defendant: European Commission (represented by: F. Castillo de la Torre, M. Schneider and K. Mojzesowicz, and subsequently by F. Castillo de la Torre and K. Mojzesowicz, acting as Agents)

Re:

Application for annulment of Commission Decision C(2005) 3452 of 14 September 2005 relating to a proceeding under Article 81 [EC] and Article 53 of the EEA Agreement (Case COMP/38.337 — PO/Thread), as amended by Commission Decision C(2005) 3765 of 13 October 2005 and, in the alternative, for reduction of the fine imposed on the applicants by that decision

Operative part of the judgment

The Court:

1. Dismisses the actions;
2. Orders Gütermann AG et Zwicky & Co. AG to pay the costs.

(¹) OJ C 60, 11.3.2006.

**Judgment of the General Court of 13 April 2010 —
Esotrade v OHIM — Segura Sánchez (YoKaNa)**

(Case T-103/06) (¹)

(Community trade mark — Opposition proceedings — Application for Community figurative mark YoKaNa — Earlier Community and national figurative marks YOKONO — Relative grounds for refusal — Likelihood of confusion — Similarity of the signs — Article 8(1)(b) of Regulation (EC) No 40/94 (now Article 8(1)(b) of Regulation (EC) No 207/2009))

(2010/C 148/45)

Language of the case: Spanish

Parties

Applicant: Esotrade SA (Madrid, Spain) (represented by: J. de Rivera Lamo de Espinosa and J.E. Astiz Suárez, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: J. García Murillo and O. Montalto, acting as Agents)

Other party to the proceedings before the Board of Appeal of OHIM intervening before the General Court: Antonio Segura Sánchez (Alicante, Spain)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 10 January 2006 (Case R 217/2004-2), concerning opposition proceedings between Antonio Segura Sánchez and Esotrade SA.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders the applicant to pay the costs.

(¹) OJ C 121, 20.5.2006.

**Judgment of the General Court of 15 April 2010 — Cabel
Hall Citrus v OHIM — Casur (EGLÉFRUIT)**

(Case T-488/07) (¹)

(Community trade mark — Invalidity proceedings — Community word mark EGLÉFRUIT — Earlier Community word mark UGLI and earlier national figurative mark ‘UGLI Fruit — but the affliction is only skin deep’ — Relative ground for refusal — No likelihood of confusion — Article 8(1)(b) and Article 52(1)(a) of Regulation (EC) No 40/94 (now Article 8(1)(b) and Article 53(1)(a) of Regulation (EC) No 207/2009))

(2010/C 148/46)

Language of the case: English

Parties

Applicant: Cabel Hall Citrus Ltd (George Town, Grand Cayman, Cayman Islands) (represented by: C. Rogers, barrister)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (represented by: D. Botis, acting as Agent)

Other party to the proceedings before the Board of Appeal of OHIM: Casur S. Coop. Andaluza (Viator, Spain)

Re:

Action brought against the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 19 September 2007 (Case R 293/2007-1), relating to invalidity proceedings between Cabel Hall Citrus Ltd and Casur S.C. Andaluza.

Operative part of the judgment

The Court:

1. Dismisses the action.
2. Orders Cabel Hall Citrus Ltd to pay the costs.

(¹) OJ C 64, 8.3.2008.