

Re:

Appeal against the judgment of the Court of First Instance (First Chamber) of 12 September 2007 in Case T-363/04 *Koipe v OHIM and Aceites del Sur (La Española)*, by which the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 11 May 2004 (Case R 1109/2000-4) was altered so as to hold that the appeal brought by the applicant before the Board of Appeal is well founded and, consequently, that the opposition is to be upheld.

Operative part of the judgment

The Court:

1. Dismisses the appeal;
2. Orders *Aceites del Sur-Coosur SA* to pay, in addition to its own costs, those of *Koipe Corporación SL*;
3. Orders the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) to bear its own costs.

⁽¹⁾ OJ C 22, 26.1.2008.

Judgment of the Court (First Chamber) of 3 September 2009 — William Prym GmbH & Co. KG, Prym Consumer GmbH & Co. KG v Commission of the European Communities

(Case C-534/07 P) ⁽¹⁾

(Appeal — Competition — Agreements, decisions and concerted practices — European haberdashery market (needles) — Market sharing agreements — Infringement of the rights of the defence — Obligation to state the reasons on which the decision is based — Fine — Guidelines — Gravity of the infringement — Actual impact on the market — Implementation of the cartel)

(2009/C 256/08)

Language of the case: German

Parties

Appellants: William Prym GmbH & Co. KG, Prym Consumer GmbH & Co. KG (represented by: H.-J. Niemeyer, C. Herrmann and M. Röhrig, Rechtsanwälte)

Other party to the proceedings: Commission of the European Communities (represented by: F. Castillo de la Torre and K. Mojesowicz, acting as Agents)

Re:

Appeal brought against the judgment of the Court of First Instance (Second Chamber) of 12 September 2007 in Case T-30/05 *Prym and Prym Consumer v Commission*, in which the Court fixed the amount of the fine imposed on the applicants by Article 2 of Commission Decision C(2004) 4221 final of 26 October 2004 relating to a procedure for the application of Article 81 EC (Case COMP/F-1/38.338-PO/Needles) at EUR 27 million — Agreement, decision or concerted practice in the market for haberdashery (needles)

Operative part of the judgment

The Court:

1. Dismisses the appeal;
2. Orders William Prym GmbH & Co. KG and Prym Consumer GmbH & Co. KG to pay the costs.

⁽¹⁾ OJ C 37, 9.2.2008.

Judgment of the Court (Second Chamber) of 3 September 2009 (Reference for a preliminary ruling from the Corte suprema di cassazione (Italy)) — Amministrazione dell'Economia e delle Finanze, Agenzia delle Entrate v Fallimento Olimpiclub Srl

(Case C-2/08) ⁽¹⁾

(VAT — Primacy of Community law — Provision of national law laying down the principle of res judicata)

(2009/C 256/09)

Language of the case: Italian

Referring court

Corte suprema di cassazione

Parties to the main proceedings

Applicants: Amministrazione dell'Economia e delle Finanze, Agenzia delle Entrate

Defendant: Fallimento Olimpiclub Srl

Re:

Reference for a preliminary ruling — Corte suprema di cassazione — Interpretation of Directive 77/388/EEC: Sixth Council Directive of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ 1977 L 145, p. 1) — Primacy of Community law — Provision of national law laying down the principle of *res judicata* leading to a result which is incompatible with Community VAT law

Operative part of the judgment

Community law precludes the application, in circumstances such as those of the case before the referring court, of a provision of national law, such as Article 2909 of the Italian Civil Code, in a dispute concerning value added tax and relating to a tax year for which