Defendant: European Commission (represented by: T. Christoforou, V. Di Bucci, F. Castillo de la Torre and N. Khan, acting as Agents)

Interveners in support of the applicant: The Computing Technology Industry Association, Inc., (Oakbrook Terrace, Illinois, United States) (represented by: G. van Gerven and T. Franchoo, lawyers); and Association for Competitive Technology, Inc., (Washington DC, United States) (represented: initially by D. Went and H. Pearson, Solicitors and subsequently by H. Mercer QC)

Interveners in support of the defendant: Free Software Foundation Europe eV, (Hamburg, Germany) and Samba Team (New York, New York, United States) (represented by: C. Piana and T. Ballarino, lawyers), Software & Information Industry Association (Washington DC) (represented by: T. Vinje and D. Dakanalis, Solicitors, and A. Tomtsis, lawyer), European Committee for Interoperable Systems (ECIS), (Brussels, Belgium) (represented by: T. Vinje, Solicitor, and M. Dolmans, N. Dodoo and A. Ferti, lawyers), International Business Machines Corp., (Armonk, New York, United States) (represented by: M. Dolmans and T. Graf, lawyers), Red Hat Inc. (Wilmington, Delaware, United States) (represented by C.-D. Ehlermann and S. Völcker, lawyers and C. O'Daly, Solicitor), and Oracle Corp., (Redwood Shores, California, United States), (represented by: T. Vinje, Solicitor and D. Paemen, lawyer)

Re:

Application for annulment of Commission Decision C(2008) 764 final of 27 February 2008 fixing the definitive amount of the periodic penalty payment imposed on Microsoft Corp. by Decision C(2005) 4420 final (Case COMP/C-3/37.792 — Microsoft) and, in the alternative, cancellation or reduction of the periodic penalty payment imposed on the applicant in that decision

Operative part of the judgment

The Court:

1. *Fixes the amount of the periodic penalty payment imposed on Microsoft Corp. in Article 1 of Commission Decision C(2008) 764 final of 27 February 2008 fixing the definitive amount of the periodic penalty payment imposed on Microsoft Corp. by Decision C(2005) 4420 final (Case COMP/C-3/37.792 — Microsoft) at EUR 860 million;*

2. *Orders Microsoft to bear its own costs and to pay 95 % of the costs incurred by the European Commission, excluding the costs incurred by the Commission in connection with the intervention of The Computing Technology Industry Association, Inc. and the Association for Competitive Technology, Inc., and 80 % of the costs incurred by the Free Software Foundation Europe eV and Samba Team, the Software & Information Industry Association, the European Committee for Interoperable Systems, International Business Machines Corp., Red Hat Inc. and Oracle Corp.;*

3. *Orders the Commission to bear 5 % of its own costs, with the exception of the costs incurred in connection with the intervention of The Computing Technology Industry Association and the Association for Competitive Technology;*

4. *Orders The Computing Technology Industry Association and the Association for Competitive Technology each to bear their own costs including those incurred by the Commission in connection with their intervention;*

5. *Orders the Free Software Foundation Europe and Samba Team, the Software & Information Industry Association, the European Committee for Interoperable Systems, International Business Machines, Red Hat and Oracle to bear 20 % of their own costs.*

([1]) OJ C 171, 5.7.2008.

Judgment of the General Court of 28 June 2012 — I Marchi Italiani and Basile v OHIM — Osra (B. Antonio Basile 1952)

(Case T-133/09) ([1])

(Community trade mark — Invalidity proceedings — Community figurative mark B. Antonio Basile 1952 — Earlier national word mark BASILE — Relative ground for refusal — Limitation in consequence of acquiescence — Article 53(2) of Regulation (EC) No 40/94 (now Article 54(2) of Regulation (EC) No 207/2009) — Likelihood of confusion — Article 8(1) of Regulation No 40/94 (now Article 8(1) of Regulation No 207/2009)

(2012/C 243/25)

Language of the case: Italian

Parties

Applicants: I Marchi Italiani Srl (Naples, Italy) and Antonio Basile (Giugliano in Campania, Italy); (represented by: G. Militerni, L. Militerni and F. Gimmelli, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented: initially by A. Sempio and subsequently by P. Bullock, acting as Agents)

Other party to the proceedings before the Board of Appeal of OHIM, intervening before the General Court: Osra SA (Rovereta, Saint-Marin) (represented by: A. Masetti Zannini de Concina, R. Cartella and G. Petrocchi, lawyers)

Re:

Action brought against the Decision of the Second Board of Appeal of OHIM of 9 January 2009 (Case R 502/2008-2) relating to invalidity proceedings between Osra SA and M. Antonio Basile.

Operative part of the judgment

The Court:

1. *Removes the name of the second applicant, Antonio Basile, from the list of applicants in Case T-133/09;*

2. *Dismisses the action;*

3. *Orders I Marchi Italiani Srl to pay the costs, other than those relating to the discontinuance;*

4. *Orders Mr Basile to bear his own costs.*

(1) OJ C 141, 20.6.2009.

Judgment of the General Court of 28 June 2012 — Basile and I Marchi Italiani v OHIM (B. Antonio Basile 1952)

(Case T-134/09) (1)

(Community trade mark — Invalidity proceedings — Community figurative mark B. Antonio Basile 1952 — Earlier national word mark BASILE — Relative ground for refusal — Limitation in consequence of acquiescence — Article 53(2) of Regulation (EC) No 40/94 (now Article 54(2) of Regulation (EC) No 207/2009) — Likelihood of confusion — Article 8(1) of Regulation No 40/94 (now Article 8(1) of Regulation No 207/2009)

(2012/C 243/26)

Language of the case: Italian

Parties

Applicants: Antonio Basile (Giugliano in Campania, Italy); and I Marchi Italiani Srl (Naples, Italy) (represented by: G. Militerni, L. Militerni and F. Gimmelli, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented: initially by A. Sempio, and subsequently by P. Bullock, acting as Agents)

Other party to the proceedings before the Board of Appeal of OHIM, intervening before the General Court: Osra SA (Rovereta, Saint-Marin) (represented by: A. Masetti Zannini de Concina, R. Cartella and G. Petrocchi, lawyers)

Re:

Action brought against the Decision of the Second Board of Appeal of OHIM of 9 January 2009 (Case R 1436/2007-2) relating to invalidity proceedings between Osra SA and M. Antonio Basile.

Operative part of the judgment

The Court:

1. *Removes the name of the second applicant, I Marchi Italiani Srl, from the list of applicants in Case T-134/09;*

2. *Dismisses the action;*

3. *Orders Mr Antonio Basile to pay the costs, other than those relating to the discontinuance;*

4. *Orders I Marchi Italiani Srl to bear its own costs.*

(1) OJ C 141, 20.6.2009.

Judgment of the General Court of 3 July 2012 — Denmark v Commission

(Case T-212/09) (1)

(EAGGF — Guarantee Section — Expenditure excluded from financing — Arable crops — Setting aside of land)

(2012/C 243/27)

Language of the case: Danish

Parties

Applicant: Kingdom of Denmark (represented initially by: J. Bering Liisberg, and subsequently by: V. Pasternak Jorgensen, acting as Agents, and by P. Biering and J. Pinborg, lawyers)

Defendant: European Commission (represented initially by: N. Rasmussen and F. Jimeno Fernández; and subsequently by F. Jimeno Fernández, acting as Agents, and by T. Ryhl, lawyer)

Re:

Annulment in part of Commission Decision 2009/253/EC of 19 March 2009 excluding from Community financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF) and under the European Agricultural Guarantee Fund (EAGF) (OJ 2009 L 75, p. 15), in so far as it excludes from Community financing certain expenditure incurred by the Kingdom of Denmark in respect of the setting aside of land

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders each party to bear its own costs.*

(1) OJ C 193, 15.8.2009.

Judgment of the General Court of 29 June 2012 — E.ON Ruhrgas and E.ON v Commission

(Case T-360/09) (1)

(Competition — Agreements, decisions and concerted practices — German and French markets for natural gas — Decision finding an infringement of Article 81 EC — Market sharing — Duration of the infringement — Fines)

(2012/C 243/28)

Language of the case: German

Parties

Applicants: E.ON Ruhrgas AG (Essen, Germany), and E.ON AG (Düsseldorf, Germany) (represented by: G. Wiedemann and T. Klose, lawyers)