



Reports of Cases

ORDER OF THE GENERAL COURT (Fourth Chamber, Extended Composition)

10 March 2022 *

(Rectification)

In Case T-286/09 RENV,

Intel Corporation, Inc., established in Wilmington, Delaware (United States), represented by A. Parr, Solicitor, D. Beard QC and J. Williams, Barrister,

applicant,

supported by

Association for Competitive Technology, Inc., established in Washington, DC (United States), represented by J.-F. Bellis and K. Van Hove, lawyers,

intervener,

v

European Commission, represented by T. Christoforou, V. Di Bucci, N. Khan and M. Kellerbauer, acting as Agents,

defendant,

supported by

Union fédérale des consommateurs – Que choisir (UFC – Que choisir), established in Paris (France), represented by E. Nasry, lawyer,

intervener,

APPLICATION under Article 263 TFEU seeking, primarily, the annulment of Commission Decision C(2009) 3726 final of 13 May 2009 relating to a proceeding under Article [102 TFEU] and Article 54 of the EEA Agreement (Case COMP/C-3/37.990 – Intel) or, in the alternative, annulment or reduction of the fine imposed on the applicant,

THE GENERAL COURT (Fourth Chamber, Extended Composition),

* Language of the case: English.

composed, at the time of the deliberation, of H. Kanninen, President, J. Schwarcz (Rapporteur) and C. Iliopoulos, Judges,

Registrar: E. Coulon,

makes the following

Order

- 1 On 26 January 2022, the Court delivered a judgment in the Case *Intel Corporation v Commission* (T-286/09 RENV, EU:T:2022:19).
- 2 In accordance with Article 164(1) of the Rules of Procedure of the General Court, it is necessary to rectify clerical mistakes found in paragraphs 334, 335 and 525 of that judgment.

On those grounds,

THE GENERAL COURT (Fourth Chamber, Extended Composition)

hereby orders:

1. Paragraph 334 of the judgment must be read as

‘Next, it follows from all of the foregoing, as regards the AEC test applied to HP, that the Commission, first, when comparing the contestable share and the required share, has not demonstrated that there were foreclosure effects in the period between 1 November 2002 and 30 September 2003 and, second, has failed to provide reasons, to the requisite legal standard, for examining the reinforcing factors’

instead of

‘Next, it follows from all of the foregoing, as regards the AEC test applied to HP, that the Commission, first, when comparing the contestable share and the required share, has not demonstrated that there were foreclosure effects in the period between 1 November 2002 and 31 September 2003 and, second, has failed to provide reasons, to the requisite legal standard, for examining the reinforcing factors.’

2. Paragraph 335 of the judgment must be read as

‘Consequently, the Commission has not established to the requisite legal standard the validity of the conclusion set out in recital 1406 of the contested decision, that, during the period from November 2002 to May 2005, Intel’s rebate to HP was capable of having an anticompetitive foreclosure effect or was likely to have such an effect, since it has not demonstrated that there were foreclosure effects in the period between 1 November 2002 and 30 September 2003.’

instead of

‘Consequently, the Commission has not established to the requisite legal standard the validity of the conclusion set out in recital 1406 of the contested decision, that, during the period from November 2002 to May 2005, Intel’s rebate to HP was capable of having an anticompetitive foreclosure effect or was likely to have such an effect, since it has not demonstrated that there were foreclosure effects in the period between 1 November 2002 and 31 September 2003.’

3. Paragraph 525 of the judgment must be read as

‘It should be noted, as regards the rebates granted to HP, that it has been held, in paragraph 334 above, that the Commission did not establish to the requisite legal standard its finding that, during the period from November 2002 to May 2005, the rebate which Intel granted to HP was capable of having or was likely to have an anticompetitive foreclosure effect, since it has not demonstrated that those effects were present for the period between 1 November 2002 and 30 September 2003. Even if it were necessary to infer that the AEC test could be regarded as conclusive for part of the period from November 2002 to May 2005, that could not demonstrate to the requisite legal standard the foreclosure effect of the rebates granted to HP, since the Commission did not consider properly the criterion relating to the share of the market covered by the contested practice and did not analyse correctly the duration of the rebates.’

instead of

‘It should be noted, as regards the rebates granted to HP, that it has been held, in paragraph 334 above, that the Commission did not establish to the requisite legal standard its finding that, during the period from November 2002 to May 2005, the rebate which Intel granted to HP was capable of having or was likely to have an anticompetitive foreclosure effect, since it has not demonstrated that those effects were present for the period between 1 November 2002 and 31 September 2003. Even if it were necessary to infer that the AEC test could be regarded as conclusive for part of the period from November 2002 to May 2005, that could not demonstrate to the requisite legal standard the foreclosure effect of the rebates granted to HP, since the Commission did not consider properly the criterion relating to the share of the market covered by the contested practice and did not analyse correctly the duration of the rebates.’

Luxembourg, 10 March 2022.

E. Coulon
Registrar

H. Kanninen
President