

**Judgment of the Court of First Instance (First Chamber) of
27 September 2006 — Ferriere Nord v Commission**

(Case T-153/04) ⁽¹⁾

(Competition — Fine — Breach of Article 81 EC — Powers of the Commission in respect of the enforcement of sanctions — Limitation period — Articles 4 and 6 of Regulation (EEC) No 2988/74 — Admissibility)

(2006/C 294/92)

Language of the case: Italian

Parties

Applicant: Ferriere Nord SpA (Osoppo, Italy) (represented by: W. Viscardini and G. Donà, lawyers)

Defendant: Commission of the European Communities (represented by: A. Nijenhuis and A. Whelan, acting as Agents, and by A. Colabianchi, lawyer)

Re:

Annulment of the Commission decisions notified by letter of 5 February 2004 and by facsimile of 13 April 2004 concerning the outstanding balance of the fine imposed on the applicant by Commission Decision 89/515/EEC of 2 August 1989 relating to a proceeding under Article 85 of the EEC Treaty (IV/31.553 — Welded steel mesh) (OJ 1989 L 260, p. 1)

Operative part of the judgment

The Court:

1. Annuls the Commission decisions notified by letter of 5 February 2004 and by facsimile of 13 April 2004 concerning the outstanding balance of the fine imposed on the applicant by Commission Decision 89/515/EEC of 2 August 1989 relating to a proceeding under Article 85 of the EEC Treaty (IV/31.553 — Welded steel mesh);
2. Orders the Commission, in addition to bearing its own costs, to pay those of the applicant.

⁽¹⁾ OJ C 168, 26.6.2004.

**Judgment of the Court of First Instance of 27 September
2006 — Telefónica v OHIM — Branch (emergia)**

(Case T-172/04) ⁽¹⁾

(Community trade mark — Opposition proceedings — Application for the figurative Community trade mark emergia — Earlier word Community trade mark EMERGEA — Likelihood of confusion — Refusal to register — Article 8(1)(b) of Regulation (EC) No 40/94)

(2006/C 294/93)

Language of the case: Spanish

Parties

Applicant: Telefónica, SA (Madrid, Spain) (represented by: A. Sirimarco, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: J. Laporta Insa, Agent)

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the Court of First Instance: David Branch (Reading, United Kingdom) (represented by: initially, C. Berenguer Marsal, and subsequently, I.M. Barroso Sánchez-Lafuente and M.C. Trullols Durán, lawyers)

Re:

Action for annulment of the decision of the First Board of Appeal of OHIM of 12 March 2004 (Case R 676/2002-1) relating to opposition proceedings between David Branch and Telefónica, SA.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders the applicant to pay the costs.

⁽¹⁾ OJ C 179, 10.07.2004.