

3. In Case T-259/02, dismisses the Commission's counterclaim;
4. In Cases T-260/02 to T-262/02, T-264/02 and T-271/02, orders the applicants to pay the costs;
5. In Case T-259/02, orders the applicant to bear its own costs and 90 % of the Commission's costs. The Commission is to bear 10 % of its own costs;
6. In Case T-263/02, orders the parties to bear their own costs.

(¹) OJ C 274, 9.11.2002.

Judgment of the Court of First Instance of 14 December 2006 — Mast-Jägermeister v OHIM — Licorera Zacapaneca (VENADO with frame)

(Joined Cases T-81/03, T-82/03 and T-103/03) (¹)

(Community trade mark — Opposition proceedings — Applications for Community figurative marks VENADO with frame, VENADO and VENADO ESPECIAL — Earlier Community figurative marks representing a deer's head facing forward in a circle — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 40/94)

(2006/C 331/67)

Language of the case: Spanish

Judgment of the Court of First Instance (Fifth Chamber) of 5 December 2006 — Westfalen Gassen Nederland v Commission

(Case T-303/02) (¹)

(Competition — Cartels — Dutch market for industrial and medical gases — Price fixing — Proof of participation in the cartel — Proof of distancing — Principles of non-discrimination and proportionality — Calculation of fines)

(2006/C 331/66)

Language of the case: Dutch

Parties

Applicant: Westfalen Gassen Nederland BV (Deventer, Netherlands) (represented by: M. Essers and M. Custers, lawyers)

Defendant: Commission of the European Communities (represented by: A. Bouquet, Agent)

Re:

Application for partial annulment of Commission Decision 2003/207/EC of 24 July 2002 relating to a proceeding pursuant to Article 81 of the EC Treaty (case COMP/E 3/36.700 — Industrial and medical gases) (OJ 2003 L 84, p. 1) and, alternatively, reduction of the fine imposed on the applicant.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Westfalen Gassen Nederland BV to bear its own costs and to pay three quarters of those incurred by the Commission and orders the Commission to bear one quarter of its own costs.

(¹) OJ C 305, 17.12.2002.

Parties

Applicant: Mast-Jägermeister AG (Wolfenbüttel, Germany) (represented by: C. Drzymalla, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM intervening before the Court of First Instance: Licorera Zacapaneca SA (Santa Cruz, Guatemala) (represented by: L. Corno Caparrós and B. Uriarte Valiente, lawyers)

Re:

Three actions brought against the decisions of the First Board of Appeal of OHIM of 19 December 2002 (Case R 412/2002-1 and Case R 382/2002-1) and 14 January 2003 (Case R 407/2002-1), relating to opposition proceedings between Licorera Zacapaneca SA and Mast-Jägermeister AG.

Operative part of the judgment

The Court:

1. Annuls the decisions of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 19 December 2002 (Case R 412/2002-1 and Case R 382/2002-1) and of 14 January 2003 (Case R 407/2002-1);
2. Orders the Office for Harmonisation in the Internal Market (Trade Marks and Designs) to pay the costs incurred by the applicant;
3. Orders the intervener to bear its own costs.

(¹) OJ C 112, 10.5.2003.