

**Judgment of the General Court of 2 February 2012 —
Denki Kagaku Kogyo and Denka Chemicals v Commission**

(Case T-83/08) ⁽¹⁾

(Competition — Agreements, decisions and concerted practices — Market for chloroprene rubber — Decision finding an infringement of Article 81 EC and Article 53 of the EEA Agreement — Price-fixing — Market-sharing — Proof of participation in the cartel — Proof of having distanced oneself from the cartel — Duration of the infringement — Rights of the defence — Access to the file — Guidelines on the method of setting — Non-retroactivity — Legitimate expectation — Principle of proportionality — Mitigating circumstances)

(2012/C 80/23)

Language of the case: English

Parties

Applicants: Denki Kagaku Kogyo Kabushiki Kaisha (Tokyo, Japan); and Denka Chemicals GmbH (Düsseldorf, Germany) (represented: initially by G. van Gerven, T. Franchoo and D. Fessenko, and subsequently by T. Franchoo, B. Bär-Bouyssière and A. de Beaugrenier, lawyers)

Defendant: European Commission (represented by: S. Noë and V. Bottka, Agents)

Re:

APPLICATION for, principally, annulment of Commission Decision C(2007) 5910 final of 5 December 2007 relating to a proceeding under Article 81 [EC] and Article 53 of the EEA Agreement (Case COMP/38.629 — Chloroprene Rubber), in that it concerns the applicants and, in the alternative, a reduction in the amount of the fine imposed jointly and severally on the applicants by that decision.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Denki Kagaku Kogyo Kabushiki Kaisha and Denka Chemicals GmbH to pay the costs.

⁽¹⁾ OJ C 107, 26.4.2008.

**Judgment of the General Court of 2 February 2012 —
skytron energy v OHIM (arraybox)**

(Case T-321/09) ⁽¹⁾

(Community trade mark — Application for Community word mark arraybox — Absolute ground for refusal — Descriptive character — Lack of distinctive character — Article 7(1)(b) and (c) of Regulation (EC) No 207/2009)

(2012/C 80/24)

Language of the case: German

Parties

Applicant: skytron energy GmbH & Co. KG (Berlin, Germany) (represented by: H.J. Omsels and C. Danziger, lawyers)

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

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 4 June 2009 (Case R 1680/2008-1) concerning an application for registration of the word sign arraybox as a Community trade mark.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders skytron energy GmbH & Co. KG to pay the costs.

⁽¹⁾ OJ C 267, 7.11.2009.

**Judgment of the General Court of 2 February 2012 —
Greece v Commission**

(Case T-469/09) ⁽¹⁾

(EAGGF — Guarantee Section — Expenses excluded from Community financing — Tomato processing and rice storage sectors — Integrated administration and control system for certain Community aid schemes — Principle of proportionality)

(2012/C 80/25)

Language of the case: Greek

Parties

Applicant: Hellenic Republic (represented by: I.K. Chalkias and S. Papaioannou, Agents)

Defendant: European Commission (represented by: P. Rossi and A. Markoulli, Agents)

Re:

Application of annulment of Commission Decision 2009/721/EC of 24 September 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), under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) (OJ 2009 L 257, p. 28).

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders the Hellenic Republic to pay the costs.

⁽¹⁾ OJ C 24, 30.1.2010.