Operative part

The Court:

1. Sets the amount of the fine imposed on William Prym GmbH & Co. KG and Prym Consumer GmbH & Co. KG under Article 2 of Commission Decision C(2004) 4221 final of 26 October 2004 relating to a proceeding under Article 81 [EC] (Case COMP/F-1/38.338 — PO/Needles) at EUR 27 million;

2. Dismisses the remainder of the appeal;

3. Orders William Prym and Prym Consumer to bear 90% of their own costs and to pay 90% of the costs incurred by the Commission, and the Commission to bear 10% of its own costs and to pay 10% of the costs incurred by William Prym and Prym Consumer.

Judgment of the Court of First Instance (Second Chamber) of 12 September 2007 — Coats Holdings and Coats v Commission

(Case T-36/05)

Competition — Cartels — European haberdashery market (needles) — Product market sharing — Geographic market sharing — Assessment of evidence — Participation in meetings — Tripartite agreement — Fine — Gravity and duration of the infringement — Attenuating circumstances

1. *Competition — Administrative procedure — Commission decision finding an infringement consisting in the conclusion of an anti-competitive agreement — Compliance with the principle of the presumption on innocence — Degree of probative force required for the Commission's evidence (Art. 81(1) EC) (see paras 68, 70-72, 74)*

2. *Competition — Agreements, decisions and concerted practices — Participation of an undertaking in a meeting of the parties to a planned cartel — Circumstance permitting the conclusion that it participated in the subsequent cartel — Condition (Art. 81(1) EC) (see paras 90, 91, 96)*

3. *Competition — Agreements, decisions and concerted practices — Undertaking which facilitated the entry into force of an anti-competitive agreement which required action on its part — Circumstance permitting the conclusion that it participated in the agreement — Merely being informed of the existence of the agreement not sufficient (Art. 81(1) EC) (see paras 105, 110, 117, 119, 120, 168)*

4. *Competition — Fines — Amount — Determination — Criteria defined in guidelines issued by the Commission — Seriousness and duration of the infringement — Attenuating circumstances — Passive or 'follow-my-leader' role of the undertaking (Art. 81(1) EC; Commission Notice 98/C 9/03) (see paras 199, 200, 204-207, 210, 212)*

Re:

APPLICATION, principally, for annulment of Commission Decision C(2004) 4221 final of 26 October 2004 relating to a proceeding under Article 81 [EC] (Case COMP/F-1/38.338 — PO/Needles) and, in the alternative, for annulment or reduction of the fine imposed on the applicants.

Operative part

The Court:

1. Annuls Commission Decision C(2004) 4221 final of 26 October 2004 relating to a proceeding under Article 81 [EC] (Case COMP/F-1/38.338 — PO/Needles) in so far as the Decision finds that the applicants infringed Article 81(1) EC after 13 March 1997;

2. Sets the amount of the fine imposed on the applicants under Article 2 of the Decision at EUR 20 million;

3. Dismisses the remainder of the application;

4. Orders the applicants to bear two thirds of their own costs and to pay two thirds of the costs incurred by the Commission, and the Commission to bear one third of its own costs and to pay one third of the costs incurred by the applicants.

Judgment of the Court of First Instance (First Chamber) of 12 September 2007 — Cain Cellars v OHIM (Device of a pentagon)

(Case T-304/05)

Community trade mark — Application for a figurative Community trade mark consisting of the device of a pentagon — Absolute ground for refusal — Absence of distinctive character — Simplicity of the sign

Community trade mark — Definition and acquisition of the Community trade mark — Absolute grounds for refusal — Marks devoid of any distinctive character (Council Regulation No 40/94, Art. 7(1)(b)) (see paras 23-26)

Re:

ACTION brought against the decision of the First Board of Appeal of OHIM of 23 May 2005 (Case R 975/2004-1) concerning the registration of the device of a pentagon as a Community trade mark.