**Re:**

APPLICATION for the annulment of Commission Decision 2004/422/EC of 7 January 2004 declaring a concentration to be incompatible with the common market and the functioning of the EEA Agreement (Case COMP/M.2978 — Lagardère/Natexis/VUP) (OJ 2004 L 125, p. 54).

**Operative part**

The Court:

1. Dismisses the action;

2. Orders Éditions Odile Jacob SAS to bear its own costs and to pay the costs of the European Commission and Lagardère SCA.

**Judgment of the General Court (Sixth Chamber) of 13 September 2010 — Trioplast Wittenheim v Commission**

**(Case T-26/06)**

(Competition — Agreements, decisions and concerted practices — Market for industrial plastic sacks — Decision finding an infringement of Article 81 EC — Duration of the infringement — Fines — Gravity of the infringement — Mitigating circumstances — Cooperation during the administrative procedure — Proportionality)

*1. Competition — Administrative procedure — Commission decision finding an infringement — Burden of proving the infringement and its duration on the Commission — Scope of the evidential burden — Burden of proof on the undertaking as regards distance taken from decisions taken during meetings (Art. 81(1) EC) (see paras 39-42, 47-48)*

2. *Competition — Fines — Joint and several liability for payment — Determination of the amount of fine having to be paid by the undertaking jointly and severally liable — Undertaking transferred several times during the infringement — Succession of several parent companies (Council Regulation No 1/2003; Commission Communication 98/C 9/03) (see paras 69-72)*

3. *Competition — Fines — Amount — Determination — Criteria — Gravity of the infringement — Assessment — Economic reality at the time the infringement was committed to be taken into account (Council Regulation No 1/2003, Art. 23(3); Commission Communication 98/C 9/03) (see paras 80-82)*

4. *Competition — Fines — Amount — Determination — Criteria — Gravity of the infringement — Mitigating circumstances — Passive or 'follow-my-leader' role of the undertaking — Criteria for assessment (Council Regulation No 1/2003, Art. 23(3); Commission Communication 98/C 9/03, para. 3) (see paras 92-94)*

5. *Competition — Fines — Amount — Determination — Maximum amount — Calculation — Turnover to be taken into consideration — Cumulative turnover of all the companies constituting the economic unit acting as an undertaking (Council Regulation No 1/2003, Art. 23(2); Commission Communication 98/C 9/03, para. 5) (see paras 112-113, 115, 145)*

6. *Competition — Fines — Amount — Determination — Discretion of the Commission — Total amount of fines exceeding the overall volume of the relevant market — Breach of principle of proportionality — None (Council Regulation No 1/2003, Art. 23(2)) (see paras 143-145)*

**Re:**

APPLICATION for partial annulment of Commission Decision C(2005) 4634 final of 30 November 2005 relating to a procedure under Article 81 [EC] (Case COMP/F/38.354 — Industrial sacks) concerning an agreement in the market for

plastic industrial sacks and, in the alternative, an application for reduction of the amount of the fine imposed on the applicant.

**Operative part**

The Court:

1. Dismisses the action;

2. Orders Trioplast Witteheim SA to pay the costs.

**Judgment of the General Court (Sixth Chamber) of 13 September 2010 — Mohr & Sohn v Commission**

**(Case T-131/07)**

(Inland waterway transport — Community-fleet capacity — Conditions for putting new vessels into service ('old for new' rule) — Commission decision not to grant the specialised vessels exemption — Article 4(6) of Regulation (EC) No 718/1999)

*Transport — Inland waterway transport — Structural improvement (Council Regulation No 718/1999, Art. 4(6)) (see paras 31-32, 36-37, 39-40)*

**Re:**

APPLICATION for annulment of Commission Decision SG (2007) D/200972 of 28 February 2007 not to grant to the vessel 'Niclas' the specialised vessels exemption, pursuant to Article 4(6) of Council Regulation (EC) No 718/1999 of 29 March