

Model Anti-monopoly Cases Tried by the People's Courts in 2025 Issued by the Supreme People's Court - Case of an anti-monopoly administrative penalty involving a horizontal monopolistic agreement on the API camphor ¹

Authority: Supreme People's Court

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Case concerning an anti-monopoly administrative penalty for a horizontal monopolistic agreement in the API camphor market [Supreme People's Court, (2023) Administrative Final No. 30, Intellectual Property Division; Nanjing Intellectual Property Court, (2021) Administrative First No. 753, Jiangsu Province]

Determination of the conclusion and implementation of the horizontal monopolistic agreement by API operators and assessment of the fine ratio.

Basic Facts

Huang Chemical & Pharmaceutical Co., Ltd. (hereinafter referred to as "Huang Company"), together with Suzhou You Technology Co., Ltd. (hereinafter referred to as "You Company") and Jiangsu Jia Pharmaceutical Co., Ltd. (hereinafter referred to as "Jia Company") (collectively, "the three companies involved in the case"), were, at the time of the alleged monopolistic conduct, the only enterprises actually engaged in the production of API camphor within China. Specifically, Huang Company and You Company produced synthetic camphor, while Jia Company produced natural camphor.

Upon receiving tip-off information suggesting that the three companies might have engaged in monopolistic practices, Provincial Administration for Market Regulation initiated an investigation and, on May 31, 2021, issued an Administrative Penalty Decision. The authority determined that the three companies had reached and implemented a horizontal monopolistic agreement, and accordingly ordered Huang Company to cease the illegal conduct, confiscated

¹ Translated by Health Law Asia – Pharmaceutical, Medical Device, and Cosmetics Law



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its unlawful gains, and imposed a fine equivalent to 5% of its sales revenue of the previous year.

Huang Company, dissatisfied with the administrative penalty decision, applied for administrative reconsideration. The State Administration for Market Regulation (SAMR) upheld the original decision upon reconsideration. Subsequently, Huang Company filed an administrative lawsuit, requesting that both the administrative penalty decision and the reconsideration decision be revoked.

The court of first instance dismissed Huang Company's claim. Dissatisfied with that judgment, Huang Company lodged an appeal.

Opinion of the Supreme People's Court

The Supreme People's Court held that natural camphor and synthetic camphor are essentially identical in terms of use, quality inspection standards, and sales channels. For downstream pharmaceutical manufacturers, the two products are interchangeable without distinction, demonstrating a high degree of demand substitutability. Accordingly, the three companies involved in this case are operators in a competitive relationship in the domestic market for camphor as an active pharmaceutical ingredient (API).

After You Company ceased producing API camphor, it entrusted Huang Company to produce industrial-grade synthetic camphor on its behalf. The two companies further agreed that You Company would assist Huang Company in developing the API camphor market and expanding its market share. In addition, they linked the processing terms of industrial-grade synthetic camphor to the market price of API camphor, from which it can be determined that Huang Company and You Company reached and implemented a horizontal monopolistic agreement to divide the sales market and fix the prices of goods.

Furthermore, the three companies involved in the case, through in-person meetings, WeChat communications, and telephone calls, took the prices negotiated among themselves as the basis for quotations to downstream pharmaceutical manufacturers. This conduct led those downstream enterprises to accept prices that had been coordinated through collusive consultation, thereby constituting the reaching and implementation of a horizontal monopolistic agreement to fix or modify commodity prices.

The acts of market division and price fixing committed by Huang Company and You Company overlap with the price coordination conduct among the three companies. This overlap amplified the anti-competitive effects by eliminating price competition and seriously harming the interests of downstream pharmaceutical manufacturers and end consumers.

Huang Company derived substantial benefits from its monopolistic conduct. Moreover, during the investigation conducted by Provincial Administration for Market Regulation, the company repeatedly delayed the investigative process and made untruthful statements. Consequently, the imposition of a fine equivalent to 5% of its sales revenue from the previous year falls within

the statutory range of administrative penalties and is commensurate with the nature, circumstances, and harmful consequences of the monopolistic conduct, as well as the company's lack of cooperation during the investigation. This determination accords with the principle of proportionality between penalty and violation.

The Administrative Penalty Decision and the Administrative Reconsideration Decision challenged in this case appropriately determined that Huang Company had reached and implemented monopolistic agreements, and the fine ratio determined therein was lawful and proper.

Accordingly, the final judgment is to dismiss the appeal and uphold the original judgment.

Typical Significance

This case represents an important practice in anti-monopoly law enforcement and judicial review within the active pharmaceutical ingredient (API) industry. It serves as a typical example of the people's courts exercising lawful supervision over, and providing judicial support for, administrative anti-monopoly enforcement, thereby jointly safeguarding fair competition in the API market.

The adjudication of this case has positive significance for clarifying the definition of the relevant product market for APIs, regulating competitive conduct among API enterprises, reducing production costs for downstream finished drug manufacturers, and safeguarding basic public welfare.